

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 11—Anhydrous Ammonia**

ORDER OF RULEMAKING

By the authority vested in the director of agriculture under section 266.355, RSMo 2000, the director amends a rule as follows:

2 CSR 90-11.010 ANSI K61.1-1981, Safety Requirements for the Storage and Handling of Anhydrous Ammonia **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2003 (28 MoReg 2211). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 30—Petroleum Inspection**

ORDER OF RULEMAKING

By the authority vested in the director of agriculture under section 414.142, RSMo 2000, the director amends a rule as follows:

2 CSR 90-30.050 Inspection of Premises **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2003 (28 MoReg 2211-2212). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife:
Privileges, Permits, Standards**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-9.353 Privileges of Class I and Class II Wildlife Breeders **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 2, 2004 (29 MoReg 162). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission (commission or PSC) under sections 386.250 and 393.140, RSMo 2000, and 393.1015.11, RSMo Supp. 2003, the commission adopts a rule as follows:

4 CSR 240-3.265 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 3, 2003 (28 MoReg 1901-1905). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rule was held on December 10, 2003, and the public comment period ended December 4, 2003. At the public hearing, Warren Wood, Manager of the Energy Department of the Commission, explained the development of the proposed rule and presented commission staff's (staff) responses to all the comments received by the filing deadline regarding the proposed rule through an exhibit that was marked as Exhibit No. 1 and entered into the record. Staff also suggested changes to the rule in its comments filed on December 4, 2003. Brian T. McCartney, attorney on behalf of Atmos Energy Corporation, Laclede Gas Company and Missouri Gas Energy (Missouri Gas Utilities), Thomas M. Byrne, attorney for

AmerenUE, Diana M. Vuylsteke, attorney on behalf of Missouri Industrial Energy Consumers (MIEC) and John B. Coffman, Public Counsel (OPC) also submitted written comments on the proposed rule on or before December 4, 2003. Warren Wood and Tim Schwarz of staff, John Coffman of OPC, Brian McCartney on behalf of Missouri Gas Energy, Mike Pendergast and Glen Buck of Laclede Gas Company, Jim Fischer on behalf of Atmos Energy and AmerenUE, Dean Cooper on behalf of Aquila and Diana Vuylsteke on behalf of Missouri Industrial Energy Consumers testified at the public hearing on December 10, 2003.

COMMENT: Staff proposed that subsection (1)(E) of the proposed rule be changed to reflect the additional language in their December 4, 2003 comments.

RESPONSE AND EXPLANATION OF CHANGE: The commission has reviewed the changes to subsection (1)(E) that the staff provided in their December 4, 2003 comments and finds that these suggested changes provide clarification without deviating from the intent of the governing statutes. The commission will incorporate this language into the rule.

COMMENT: Brian T. McCartney, Attorney with Brydon, Swearingen & England on behalf of Missouri Gas Utilities commented that "For all of these reasons, the Missouri Gas Utilities respectfully request that the Commission modify both sections (8) and (9) of the Proposed Rule so as to eliminate the separate line-item billing requirement." Brian T. McCartney, on behalf of Missouri Gas Energy, further testified during the public hearing that staff's proposed removal of "line-item" in section (8)(C) of the proposed rule does not remove the line-item requirement from the rule since the rule still requires that each bill identify the existence and the amounts of the infrastructure system replacement surcharges (ISRS). At the public hearing, Mike Pendergast of Laclede Gas Company echoed Mr. McCartney's comments. At the public hearing, Jim Fisher, attorney on behalf of Atmos Energy and AmerenUE, also echoed the comments of Mr. McCartney and those of Laclede Gas Company.

RESPONSE: The commission has reviewed the suggested changes of the Missouri Gas Utilities on this issue and will not incorporate these suggested changes into the rule. The public notice requirements of sections (8) and (9) of the proposed rule are permitted under the statutes and are necessary if the public is to be informed of these surcharges on their bills.

COMMENT: Staff recommended in its Exhibit No. 1 ". . . that the changes detailed in its comments filed on December 4, 2003 be implemented to subsections (8)(A) and (8)(C). Staff's recommended change to subsection (8)(A) simplifies the notice requirement somewhat while retaining information that the customer should be provided with. Staff's recommended change to subsection (8)(C) removes the "line-item" requirement since it is not staff's intent to prescribe a format for the surcharge description on customer bills."

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered staff's comments on subsections (8)(A) and (8)(C) and agrees that these changes to the proposed rule will simplify the notice requirement while still preserving the needed information for customers to better understand these surcharges on their bills. The commission has further modified sections (8) and (9) of the rule to clarify that the commission shall approve these notices before they are sent to customers.

COMMENT: John B. Coffman, OPC commented that "Paragraph (9) of 4 CSR 240-3.265 as proposed, sets out the timetable for a gas utility to provide examples of customer notifications and billings for Commission approval. This proposed requirement is consistent with Commission practice in other rate cases and is essential to ensure accurate information is conveyed to customers who have no alternative provider from whom to receive utility service. Public Counsel would recommend that this paragraph also permit Public Counsel to

submit comments on the proposed notice submitted to the Commission."

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered this suggested change to the proposed rule and has added a provision to section (9) of the rule that specifies that OPC may submit comments regarding these notices to the commission.

COMMENT: John B. Coffman, OPC, testified at the public hearing that OPC disagrees that providing line-item billing information regarding the surcharge would be in violation of the statute. Mr. Coffman further testified that this may be a matter of commission discretion but the use of the word "surcharge" is, in the opinion of OPC, intended to be a separate line-item.

RESPONSE AND EXPLANATION OF CHANGE: As previously noted, the commission will require that this surcharge be identified on customer bills so that they will be provided with the needed information to better understand these charges.

COMMENT: The staff proposed that additional language be added to section (9) of the proposed rule to provide for OPC's comments regarding the public notices required by sections (8) and (9) of the proposed rule in its Exhibit No. 1.

RESPONSE AND EXPLANATION OF CHANGE: As noted in a previous response, the commission has added a provision to section (9) of the rule that specifies that OPC may submit comments regarding these notices to the commission.

COMMENT: Staff proposed that section (10) be changed to reflect the additional language in their December 4, 2003 comments.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the change to section (10) proposed by the staff and finds that this change is consistent with the statute and will implement this additional language into the rule.

COMMENT: Staff recommended that a number of changes be made to section (11) of the proposed rule in its Exhibit No. 1.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the section (11) changes that staff proposed in its Exhibit No. 1 and finds that these changes provide clarification to the rule without deviating from the language of the governing statutes.

COMMENT: Brian T. McCartney, Attorney w/Brydon, Swearingen & England on behalf of Missouri Gas Utilities commented that "The words 'the provisions of this rule and' should accordingly be eliminated from section (11) of the Proposed Rule."

RESPONSE: The commission has considered the changes to section (11) that the Missouri Gas Utilities submitted in their December 4, 2003 filing with the comments that staff made in its Exhibit No. 1. The commission has adopted the revised language proposed by staff to section (11) of the rule. The language in section (11) of the proposed rule that states ". . . provided pursuant to this rule. . ." does not conflict with the statute. The proposed rule provides clarification as to what information the parties will require in order to review the ISRS. The data requirements contained in the rule are consistent with the statute. The statute clearly states that parties may review the supporting documentation of the utility in order to develop their recommendations regarding the ISRS petition of the utility. Stating that the utility shall provide data "pursuant to this rule" if the rule is asking for data necessary for compliance with the review provisions of the statute is not in conflict with the statute.

COMMENT: Brian T. McCartney, Attorney w/Brydon, Swearingen & England on behalf of Missouri Gas Utilities commented that "Accordingly, the words 'this rule and' should be eliminated from section (13) of the Proposed Rule."

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the proposed change to section (13) of the

proposed rule and agrees that removal of this language is consistent with the governing statute's provisions and will be deleted.

COMMENT: John B. Coffman, OPC commented that "Paragraph (13) of 4 CSR 240-3.265 as proposed, is consistent with RSMo 393.1015.2 (4), with minor wording changes that Public Counsel does not believe changes the intent or directive of the statute. However, Public Counsel recommends insertion of the phrase from the statute 'pursuant to the provisions of sections 393.1009 to 393.1015' after the word 'commission' at the end of the proposed paragraph for clarification."

RESPONSE: As noted in a previous response, the commission has removed the reference to "this rule and" in front of "sections 393.1009 and 393.1015, RSMo." This revision clarifies that the provisions of section (13) are specific to the provisions of the governing statutes. The commission does not believe that the additional language suggested by OPC is needed in this section in addition to the changes to this section the commission has already made.

COMMENT: In its Exhibit No. 1 and December 4, 2003 comments the staff suggested that "this rule and" be removed from section (13) of the proposed rule for consistency with the statutes. In its Exhibit No. 1, staff did not believe that additional changes were needed in section (13) of the proposed rule to address OPC's comment.

RESPONSE AND EXPLANATION OF CHANGE: As previously noted, the commission agrees with this comment and has incorporated the language revision proposed by staff.

COMMENT: Diana M. Vuylsteke, Attorney w/Bryan Cave, LLP on behalf of MIEC commented that "The MIEC recommends that the Commission's rules expressly provide the following: The Monthly ISRS shall vary according to customer class and shall be calculated based on customer numbers as determined during the most recent general rate proceeding of the gas corporation so long as the monthly ISRS for each customer class maintains a proportional relationship equivalent to the proportional relationship of the monthly customer charge for each customer class."

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered this recommended addition to the proposed rule and agrees with the comment. A new section (14) has been added to the rule that incorporates the language from section 393.1015.5(1).

COMMENT: The staff proposed in its Exhibit No. 1 that the language suggested by MIEC be added to the proposed rule.

RESPONSE AND EXPLANATION OF CHANGE: As noted in a previous response, the commission has added a new section (14) to the rule that incorporates the language from section 393.1015.5(1).

COMMENT: John B. Coffman, OPC commented that "Paragraph (16) of 4 CSR 240-3.265 as proposed, repeats significant portions of Subsection 393.1015.6(1) RSMo, however the proposed rule does not reference the consumer protections provisions of Sections 393.1015.8 and 393.1015.9 RSMo. These two statutory sections provide that ISRS charges for plant subsequently found by the Commission to be imprudently incurred or constructed are to be excluded during a general rate proceeding. The proposed rule is unclear as to what happens to ISRS charges associated with imprudent plant. The proposed rule as currently drafted does not recognize this possibility. The statutes anticipate that prudence reviews would occur during general rate cases within three years. Public Counsel believes that these statutory references to rate case reviews of prudence are vital to protect the consumer and as such should be included in the final rule approved by this Commission." In the public hearing, Mr. Coffman further testified that the proposed rule needs to provide clarification on how surcharges associated with imprudent plant will be addressed in future ISRS filings.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered this suggested change and notes that the focus of

the proposed rule is on the provisions under which the commission will address the filing and processing of ISRS petitions. The commission is not however opposed to reproducing this statutory provision in the proposed rule. A new section (15) has been added to the proposed rule to address this suggested change.

COMMENT: The staff proposed in its Exhibit No. 1 that a new section (15) be added to the rule to address the comments of the OPC by reproducing RSMo sections 393.1015.8 and 393.1015.9 in the rule.

RESPONSE AND EXPLANATION OF CHANGE: As noted in a previous response, the commission has added a new section (15) to the rule to address this comment.

COMMENT: John B. Coffman, OPC commented that "Paragraph (17) of 4 CSR 240-3.265 as proposed contains significant portions of Subsection 393.1015.6(2) RSMo, however the proposed rule does not reference the consumer protections provisions of Sections 393.1015.8 and 393.1015.9 RSMo. These two sections provide that ISRS charges for plant subsequently found by the Commission to be imprudently incurred or constructed may be excluded during a general rate proceeding."

RESPONSE AND EXPLANATION OF CHANGE: As noted in a previous response, the commission has added a new section (15) to the rule to specifically incorporate RSMo sections 393.1015.8 and 393.1015.9 into the rule.

COMMENT: John B. Coffman, OPC commented that "The new statute does not address how any reconciled amount (either over recovery or under recovery) that exists after the ISRS has been rebased to zero should be reflected on customer bills. Public Counsel would suggest that language be included to explain how the un-reconciled amount could be handled in a manner consistent with the intent of these statutory provisions. If the reconciled amount does not meet the monetary threshold for implementation of an ISRS, the reconciled monies could be held so that future ISRS filings would be modified by the reconciled amount. If the reconciled amount achieves the monetary threshold was achieved, a new ISRS could be filed to refund or collect monies from the ratepayer as appropriate." At the public hearing, Mr. Coffman further testified of the need for this clarification in the proposed rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered this comment and agrees that the proposed rule does not provide sufficient guidance on how unreconciled ISRS amounts will be addressed after general rate case proceedings. The commission has added language to sections (18) and (19) of the rule that is consistent with the filing threshold limits of the statute to address this deficiency.

COMMENT: The staff suggested in its Exhibit No. 1 that sections (2) and (17) of the proposed rule provide sufficient guidance as to how unreconciled amounts of ISRS should be addressed after a rate case.

RESPONSE AND EXPLANATION OF CHANGE: As noted in a previous response, the commission does not agree that the rule is clear in this area and has added language to sections (18) and (19) of the rule to clarify how unreconciled ISRS amounts will be addressed after a general rate proceeding.

COMMENT: Staff proposed that subsection (18)(M) of the proposed rule be changed to reflect the language proposed in its December 4, 2003 comments and its Exhibit No. 1.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the proposed changes to subsection (18)(M) of the proposed rule and finds that these changes make this provision of the rule consistent with the statute and will implement these changes into the rule. Due to other sections being added to the rule this change now appears in subsection (20)(I) of the rule.

COMMENT: Brian T. McCartney, Attorney w/Brydon, Swearingen & England on Behalf of Missouri Gas Utilities commented that "As a result, the Proposed Rule's attempt to alter the meaning of net original cost must be rejected for what it is—a transparent effort to interject into the ISRS process the very kind of extraneous revenue requirement and ratemaking issues that are expressly forbidden by the clear language of HB 208. To that end, Appendix 1 reflects the revisions to subsection (18)(O) of the Proposed Rule that must be made to correct this deficiency." At the public hearing, Mr. McCartney, on behalf of Missouri Gas Energy, testified that although staff has suggested another rewrite to subsection (18)(O) of the proposed rule in its Exhibit No. 1, this latest version is no more consistent with the legislative intent apparent from the statutory language itself than the earlier version. Mr. McCartney further testified that staff's most recent rewrite of the definition of the net original cost of eligible infrastructure replacement is simply not capable of being done, in addition to being contrary to the plain language of the statute. Finally, Mr. McCartney testified that Staff's proposed rewrite appears to be premised on the notion that depreciation expense is intended to provide for the replacement of facilities, which is clearly not the case as stated in section 6.03 of *Accounting for Public Utilities*. At the public hearing, Mike Pendergast of Laclede Gas Company echoed Mr. McCartney's comments. At the public hearing, Glen Buck of Laclede Gas Company testified that staff's proposed revisions to subsection (18)(O) of the proposed rule go entirely in the wrong direction in that it would be even more financially detrimental to the utilities and less consistent with what Mr. Buck believed HB 208 requires. At the public hearing, Mr. Buck also echoed some of the comments of Mr. McCartney on this issue. At the public hearing, Jim Fisher, attorney on behalf of Atmos Energy and AmerenUE, also echoed the comments of Mr. McCartney and those of Laclede Gas Company.

RESPONSE AND EXPLANATION OF CHANGE: The commission has carefully considered the changes to subsection (18)(O) proposed by the Missouri Gas Utilities and has, based on the statutes' language, changed the rule to reflect the suggested changes. Due to other sections that have been added to this rule this change now appears in subsection (20)(K).

COMMENT: Staff proposed that subsection (18)(O) should be modified to reflect the net original cost clarification language submitted in its December 4, 2003 comments and its Exhibit No. 1. At the public hearing, Tim Schwarz, attorney for staff testified in support of the language revisions staff recommended in its December 4, 2003 comments and its Exhibit No. 1.

RESPONSE: The commission has considered the statutory language associated with net original cost and cannot support the clarification language proposed by staff. The rule has not been changed to reflect this proposed language.

COMMENT: John B. Coffman, OPC commented that "Public Counsel believes that additional information which is required under the new statutes are not set out in paragraph 18. Specifically, Section 393.1009(1)(a) RSMo requires that accumulated depreciation expense and accumulated deferred income taxes associated with eligible infrastructure system replacements which are included in a currently effective ISRS be recognized in the determination of the ISRS charge. It is not readily apparent to Public Counsel where the proposed rule incorporates this required information in the list of information the utility is supposed to submit. Therefore, Public Counsel would respectfully recommend that the Commission modify the rule to require that the accumulated depreciation expense and accumulated deferred income taxes associated with each ISRS eligible property be provided as part of the data requirements to be filed with an ISRS application."

RESPONSE AND EXPLANATION OF CHANGE: This comment relates to how net original cost will be addressed by the parties when an ISRS is calculated. The commission has considered this comment

and it is addressed by the changes the commission made to subsection (18)(O) of the proposed rule. Due to other sections being added to the rule this change now appears in subsection (20)(K) of the rule.

COMMENT: Brian T. McCartney, Attorney w/Brydon, Swearingen & England on behalf of Atmos Energy Corporation, Laclede Gas Company and Missouri Gas Energy "Missouri Gas Utilities" commented that "There are also several provisions of subsection (O)—specifically subsections (O)3 and (O)6.—that appear to have no place in the rule and may have been inadvertently lifted from the water utility ISRS provisions."

RESPONSE AND EXPLANATION OF CHANGE: As noted in the next response, the commission has removed items (O)3 and (O)6 from the rule.

COMMENT: Staff commented in its Exhibit No. 1 that "Subsections (O)3 and (O)6 of the proposed rule were not lifted from the water utility ISRS provisions. These subsections were provided in this list of possible qualifying project categories to be a 'catch all' for projects that may have been appropriate but were not specifically required by a rule, regulation, statute or Commission Order. Staff does not object to removal of these subsections. Staff suggested that these subsections be removed in its comments to the rule filed on December 4, 2003. . . "

RESPONSE AND EXPLANATION OF CHANGE: The commission has reviewed the governing statutes' language and has removed subsections (O)3. and (O)6. from the rule. The statute provides clear guidance on what gas utility plant projects are eligible for ISRS consideration and the types of projects listed in the proposed rule under these subsections would not qualify for treatment.

COMMENT: Brian T. McCartney, Attorney w/Brydon, Swearingen & England on behalf of Missouri Gas Utilities commented that "Finally, to be consistent with the ISRS provisions of HB 208, subsection (P) of Section 18 should also be modified to provide that the source of any regulatory or other requirement to install facilities may also be a statute, rule or regulation, as well as a Commission Order."

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered these suggested changes to subsection (18)(P) and agrees that these changes are appropriate and will incorporate them into the rule. Due to other section additions this change now appears as subsection (20)(L).

COMMENT: Staff proposed that clarifying language be added to subsection (18)(P) of the proposed rule in its December 4, 2003 comments and its Exhibit No. 1.

RESPONSE AND EXPLANATION OF CHANGE: As noted in a previous response, the commission agrees with this additional language and it will be added to the rule. Due to other section additions this change now appears in subsection (20)(L).

COMMENT: Brian T. McCartney, Attorney w/Brydon, Swearingen & England on behalf of Missouri Gas Utilities commented that "Subsection (G), (J), (K), (L), and (M) of section (18) of the Proposed Rule also introduce additional items to be reviewed during the ISRS process that go well beyond those provided for in the ISRS provisions of HB 208." At the public hearing, Mr. McCartney testified that these additional data requirements are only necessary to assess prudence, something that can only occur in the course of a general rate case proceeding. At the public hearing, Mike Pendergast of Laclede Gas Company echoed Mr. McCartney's comments. At the public hearing, Jim Fisher, attorney on behalf of Atmos Energy and AmerenUE, also echoed the comments of Mr. McCartney and those of Laclede Gas Company.

RESPONSE AND EXPLANATION OF CHANGE: The commission has carefully reviewed the comments of the Missouri Gas Utilities and the governing statute's provisions related to the information that these subsections of the rule require that utilities provide

to the staff and OPC when they file an ISRS petition. The commission will not require that the information requested in subsections (18)(G), (18)(J), (18)(K) and (18)(L) be provided each time an ISRS petition is filed. The statute does not permit the commission to require this information be submitted with each ISRS petition. Subsections 393.1015.2(2), 393.1015.8 and 393.1015.10, RSMo provide guidance as to what factors may be considered when an ISRS petition is filed, and when the underlying cost that result in these surcharges may be examined by the staff for prudence. The staff is clearly permitted by subsection 393.1015.10, RSMo to file a complaint case, pursuant to the provisions of section 386.390, RSMo and audit a utility if conditions warrant this review. The commission will, however, require that this data be provided to the staff and OPC either when a utility files their proposed ISRS rate schedules or when they file their next general rate case after an ISRS goes into effect. These subsections will be placed in a new section (21) of the rule as subsections (21)(A), (21)(B), (21)(C) and (21)(D). Furthermore, the language in the new subsection (21)(C) will be changed to clarify that to the degree that particular projects have financing associated with them the information required in subsection (21)(C) shall be provided. Subsection (18)(M) in the proposed rule, which is now subsection (20)(I), has been changed to reflect the revised language suggested by the Missouri Gas Utilities. These changes to subsection (20)(I) of the rule are consistent with the language in the governing statute.

COMMENT: Staff proposed that subsection (18)(J) be changed to reflect the language proposed in its December 4, 2003 comments.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the suggested change to (18)(J) and will incorporate this change into the rule. Due to other section additions this data requirement now appears in subsection (21)(B).

COMMENT: Staff proposed that subsections (18)(G), (18)(J), (18)(K) and (18)(L) should remain in the proposed rule in its Exhibit No. 1. Staff states, "the information requested in these subsections is needed to fulfill the overall statutory obligations of the Commission related to the eligible infrastructure replacement and these surcharges."

RESPONSE AND EXPLANATION OF CHANGE: The commission considered staff's comments in its decision to retain this information in the data requirements of the rule but not make submittal of this information a requirement each time an ISRS petition is filed. As previously noted, the commission has changed the rule to require that this data be provided to the staff and OPC either when a utility files their proposed ISRS rate schedules or when they file their next general rate case after an ISRS goes into effect. These subsections will be placed in a new section (21) of the rule as subsections (21)(A), (21)(B), (21)(C) and (21)(D).

COMMENT: Thomas M. Byrne, Associate General Counsel, Ameren Services Company on behalf of Union Electric Company d/b/a AmerenUE commented that "However, AmerenUE does want to separately express its concern to the Commission that great care must be taken when attempting to develop a rule to implement statutory provisions as detailed as those found in H.B. 208. In fact, given the level of detail provided in the statute, there is a good argument that there is no need for any rule at all."

RESPONSE: The commission has thoroughly considered AmerenUE's suggestion that no rule is necessary to implement this rule. The commission's purpose in developing this rule is to implement the governing statutes in a manner that is consistent with the statutes and that provides for the timely processing of the ISRS petitions, cost true-ups and prudence reviews permitted by the statutes. The rule does ask for a significant amount of information, all of this information is either directly required for the ISRS petition review itself or for the prudence reviews that are specifically authorized by the statutes. The statutory time frames for staff and OPC analysis of

the petitions and developing recommendations and the commission's issuance of an Order require the level of detail outlined in this rule. The statute does not permit sufficient time to allow for a thorough review of the petition, development of data requests, a twenty (20)-day turnaround on responses, analysis of these initial data requests responses, a potential second round of data requests, another twenty (20)-day turnaround on responses, a staff recommendation, testimony rounds, hearings and a commission decision. The data requirements outlined in the rule will significantly simplify this process by notifying the natural gas utility what information will be required in the petition when it is filed. This up-front submittal requirement will significantly reduce the number of data requests sent to the natural gas utilities with a twenty (20)-day turnaround and hopefully reduce confusion between the parties regarding what information is needed. Outlining these requirements in the rule will also result in each of the natural gas utilities being notified up front as to what information will be required when they file their petition.

COMMENT: In response to the comments of AmerenUE regarding the need for a rule the staff, its Exhibit No. 1, commented that "... the statute specifies that any Staff report regarding its examination shall be completed not later than 60 days after the petition is filed and that any Commission Order shall be issued such that it becomes effective no later than 120 days after the petition is filed. The statute does not appear to provide for an ability to suspend the utility filing, even if the information provided by the utility is poorly organized and determined to be incomplete after the petition has been accepted. These time lines and a weakened capability to suspend the filing mandate that Staff develop a rule that is explicit in terms of what information will be needed by the Staff. Staff does not have sufficient time to review the filing of the utility, develop data requests (DR), send out DRs, wait 20 days, review DR responses, develop additional DRs where the responses received were incomplete or brought up additional questions, wait another 20 days and write a Staff report regarding the amount of the ISRS that is appropriate given the information examined by the Staff. The proposed rule basically incorporates Staff's first round of DRs in an effort to shorten the number of steps Staff will need to go through to complete the necessary reviews of the data provided by the utility. The proposed rule also provides notice to the natural gas utilities on what information they should be maintaining for submittal associated with their ISRS filings."

RESPONSE: As previously noted, the commission will adopt this rule and believes that this rule is necessary to implement the governing statutes in a manner that is consistent with the statutes and that provides for the timely processing of the ISRS petitions, cost true-ups and prudence reviews permitted by the statutes.

4 CSR 240-3.265 Natural Gas Utility Petitions for Infrastructure System Replacement Surcharges

(1) As used in this rule, the following terms mean:

(E) ISRS costs—annual depreciation expenses, and property taxes that will be due within twelve (12) months of the ISRS filing on the total cost of eligible infrastructure system replacements less annual depreciation expenses and property taxes on any related facility retirements;

(F) ISRS revenues—revenues produced through an ISRS, exclusive of revenues from all other rates and charges;

(G) Natural gas utility plant projects—projects that consist only of the following:

1. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities that have worn out or are in deteriorated condition;

2. Main relining projects, service line insertion projects, joint

encapsulation projects, and other similar projects extending the useful life, or enhancing the integrity of pipeline system components undertaken to comply with state or federal safety requirements; and

3. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state or another entity having the power of eminent domain; provided that the costs related to such projects have not been reimbursed to the natural gas utility.

(8) The natural gas utility shall provide the following notices to its customers, with such notices to be approved by the commission in accordance with section (9) of this rule before they are sent to the customers:

(A) An initial, one (1)-time notice to all potentially affected customers, such notice being sent to customers no later than when customers will receive their first bill that includes an ISRS, explaining the subject utility's infrastructure system replacement program, explaining how its ISRS will be applied to its various customer classes and identifying the statutory authority under which it is implementing its ISRS;

(C) A surcharge description on all affected customer bills, which informs the customers of the existence and amount of the ISRS on the bills.

(9) Within twenty (20) days of the natural gas utility's filing of a petition to establish an ISRS, the subject utility shall submit the following items to the commission for approval or rejection, and the office of the public counsel may, within ten (10) days of the gas utility's filing of this information, submit comments regarding these notices to the commission:

(A) An example of the notice required by subsection (8)(A) of this rule;

(B) An example of the notice required by subsection (8)(B) of this rule; and

(C) An example customer bill showing how the ISRS will be described on affected customers' bills in accordance with subsection (8)(C) of this rule.

(10) When a natural gas utility files a petition pursuant to the provisions of this rule and sections 393.1009 to 393.1015, RSMo, the commission shall conduct an examination of the proposed ISRS.

(11) The staff of the commission may examine the information of the natural gas utility provided pursuant to this rule and sections 393.1009 to 393.1015, RSMo, to confirm the underlying costs and proper calculation of the proposed ISRS, and may submit a report regarding its examination to the commission not later than sixty (60) days after the natural gas utility files its petition. The staff shall not examine any other revenue requirement or ratemaking issues in its consideration of the petition or associated proposed rate schedules.

(13) If the commission finds that a petition complies with the requirements of sections 393.1009 to 393.1015, RSMo, the commission shall enter an order authorizing the natural gas utility to impose an ISRS that is sufficient to recover appropriate pretax revenues, as determined by the commission.

(14) The monthly ISRS shall vary according to customer class and shall be calculated based on the customer numbers reported in the most recent annual report of the natural gas utility so long as the monthly ISRS for each customer class maintains a proportional relationship equivalent to the proportional relationship of the monthly customer charge for each customer class.

(15) Commission approval of a petition, and any associated rate schedules, to establish or change an ISRS pursuant to sections 393.1009 to 393.1015, RSMo, shall in no way be binding upon the commission in determining the ratemaking treatment to be applied to

eligible infrastructure system replacements during a subsequent general rate proceeding when the commission may undertake to review the prudence of such costs. In the event the commission disallows, during a subsequent general rate proceeding, recovery of costs associated with eligible infrastructure system replacements previously in an ISRS, the natural gas utility shall offset its ISRS in the future as necessary to recognize and account for any such overcollections. Nothing in this rule or section 393.1015, RSMo, shall be construed as limiting the authority of the commission to review and consider infrastructure system replacement costs along with other costs during any general rate proceeding of any natural gas utility.

(16) A natural gas utility may effectuate a change in an ISRS no more often than two (2) times during every twelve (12)-month period, with the first such period beginning on the effective date of the rate schedules that establish an initial ISRS. For the purposes of this section, an initial ISRS is the first ISRS granted to the subject utility or an ISRS established after an ISRS is reset to zero pursuant to the provisions of section (18) of this rule.

(17) At the end of each twelve (12)-month period that an ISRS is in effect, the natural gas utility shall reconcile the differences between the revenues resulting from the ISRS and the appropriate pretax revenues as found by the commission for that period and shall submit the reconciliation and proposed ISRS rate schedule revisions to the commission for approval to recover or refund the difference, as appropriate.

(18) A natural gas utility that has implemented an ISRS shall file revised ISRS rate schedules to reset the ISRS to zero when new base rates and charges become effective following a commission order establishing customer rates in a general rate proceeding that incorporates eligible costs previously reflected in an ISRS into the subject utility's base rates. If an over or under recovery of ISRS revenues, including any commission ordered refunds, exists after the ISRS has been reset to zero, that amount of over or under recovery shall be tracked in an account and considered in the next ISRS filing of the natural gas utility. The commission shall reject an ISRS petition after a commission order in a general rate proceeding unless the ISRS revenues requested in the petition, on an annualized basis, will produce ISRS revenues of at least the lesser of one-half of one percent (1/2%) of the natural gas utility's base revenue level approved by the commission in the natural gas utility's most recent general rate case proceeding or one (1) million dollars, but not in excess of ten percent (10%) of the subject utility's base revenue level approved by the commission in the utility's most recent general rate proceeding.

(19) Upon the inclusion of eligible costs previously reflected in an ISRS into a natural gas utility's base rates, the subject utility shall immediately thereafter reconcile any previously unreconciled ISRS revenues, and track them per section (18) of this rule, as necessary to ensure that revenues resulting from the ISRS match, as closely as possible, the appropriate pretax revenues as found by the commission for that period.

(20) At the time that a natural gas utility files a petition with the commission seeking to establish, change or reconcile an ISRS, it shall submit proposed ISRS rate schedules and its supporting documentation regarding the calculation of the proposed ISRS with the petition, and shall serve the office of the public counsel with a copy of its petition, its proposed rate schedules and its supporting documentation. The subject utility's supporting documentation shall include workpapers showing the calculation of the proposed ISRS, and shall include, at a minimum, the following information:

(A) The state, federal, and local income or excise tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;

(B) The regulatory capital structure used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that capital structure;

(C) The cost rates for debt and preferred stock used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those cost rates;

(D) The cost of common equity used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that equity cost;

(E) The property tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;

(F) The depreciation rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those depreciation rates;

(G) The applicable customer class billing units used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those billing units;

(H) An explanation of how the proposed ISRS is being proportioned between affected customer classes, if applicable;

(I) An explanation of how the infrastructure replacement projects associated with the ISRS do not increase revenues by directly connecting the infrastructure replacement to new customers;

(J) An explanation of when the infrastructure replacement projects associated with the ISRS were completed and became used and useful;

(K) For each project for which recovery is sought, the net original cost of the infrastructure system replacements (original cost of eligible infrastructure system replacements, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements which are included in a currently effective ISRS), the amount of related ISRS costs that are eligible for recovery during the period in which the ISRS will be in effect, and a breakdown of those costs identifying which of the following project categories apply and the specific requirements being satisfied by the infrastructure replacements for each:

1. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state safety requirements;

2. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with federal safety requirements;

3. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects undertaken to comply with state safety requirements;

4. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects undertaken to comply with federal safety requirements;

5. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States;

6. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of this state;

7. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of a political subdivision of this state; and

8. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of an entity other than the United States, this state, or a political subdivision of this state, having the power of eminent domain;

(L) For each project for which recovery is sought, the statute, commission order, rule, or regulation, if any, requiring the project; a description of the project; the location of the project; what portions of the project are completed, used and useful; what portions of the

project are still to be completed; and the beginning and planned end date of the project.

(21) In addition to the information required by section (20) of this rule, natural gas utilities shall, either when they file their proposed ISRS rate schedules or when they file their next general rate case after an ISRS goes into effect, submit, at a minimum, the following supporting documentation to staff and the office of the public counsel, for each ISRS filed since the utility's last general rate case:

(A) An explanation of how long any infrastructure that was replaced associated with the ISRS had been installed when it was removed or abandoned;

(B) An explanation of the efforts of the natural gas utility to quantify and to seek reimbursement of any costs associated with relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state, or another entity having the power of eminent domain, which could offset the requested ISRS revenues;

(C) If any infrastructure replacement projects associated with the ISRS were funded through financing arrangements directed toward these projects, an explanation of how the infrastructure replacement projects were funded, including the amount of any debt and the interest rate on that debt; and

(D) An explanation of the request for proposal (RFP) process, or the reasons for not using an RFP process, used to establish what entity performed the infrastructure replacement projects associated with the proposed ISRS.

(22) In addition to the information required by section (20) of this rule, the natural gas utility shall also provide the following information when it files a petition with the commission seeking to establish, change or reconcile an ISRS:

(A) A description of all information posted on the subject utility's website regarding the infrastructure system replacement surcharge and related infrastructure system replacement projects; and

(B) A description of all instructions provided to personnel at the subject utility's call center regarding how those personnel should respond to calls pertaining to the ISRS.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 3—Filing and Reporting Requirements

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.140, RSMo 2000 and 393.1006.10, RSMo Supp. 2003, the commission adopts a rule as follows:

4 CSR 240-3.650 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 3, 2003 (28 MoReg 1907-1910). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments regarding this proposed rule from the PSC staff, the Office of the Public Counsel (OPC) and Missouri-American Water Company (MAWC). The period for receiving written comments on this proposed rule ended on December 4, 2003. The commission held a public hearing on this proposed rule on December 11, 2003 and received comments regarding this proposed rule from representatives of all of the above-referenced entities at that hearing.

Comments received addressed the need for the rule in general and various specific provisions of the proposed rule. The comments regarding the need for the rule will be addressed first below, with comments regarding specific provisions of the rule then being addressed in order by rule section.

COMMENT: Missouri-American Water Company stated that the proposed rule is not necessary, due to the specificity of the enabling statute, and said that sections (1) through (7), (10), (12), and (15) through (17) unnecessarily restate certain provisions of House Bill 208.

RESPONSE: The commission has considered the comment and will not delete the rule in its entirety, as requested, because there is a need to specify the procedures to be followed in implementing the statute, and the statute permits the restatement of the statute in order to make the requirements of the rule easier to understand.

COMMENT: The staff of the Public Service Commission recommended that subsection (1)(E) of the proposed rule be revised to make clear that the annual depreciation expenses and property taxes that are included in "ISRS costs" are those that apply to eligible infrastructure system replacements, reduced by depreciation expenses and property taxes on any related facility retirements.

RESPONSE AND EXPLANATION OF CHANGE: The commission has reviewed the changes suggested by the staff and finds that these suggested changes provide clarification without deviating from the intent of the governing statutes. The commission will incorporate this language into the rule.

COMMENT: Missouri-American Water Company commented that the requirements in sections (8) and (9) of the proposed rule that a water corporation provide its customers with an initial notice, and annual notices thereafter, regarding ISRS filings, is not found in the provisions of House Bill 208 and is contrary to the provisions of section 393.1006.10, RSMo. Missouri-American estimates that this notice requirement will cause additional costs of about one hundred ninety-five thousand dollars (\$195,000) per year to be borne by its St. Louis County customers.

RESPONSE: The commission has reviewed the changes suggested by Missouri-American, and will not incorporate these suggested changes into the rule. The public notice requirements of sections (8) and (9) of the proposed rule are permitted under the statutes and are necessary if the public is to be informed of these surcharges on their bills.

COMMENT: Missouri-American Water Company commented that the requirement in sections (8) and (9) of the proposed rule that a water corporation provide a line-item description of the surcharge is inconsistent with House Bill 208 and is contrary to the provisions of section 393.1006.10, RSMo. Missouri-American states, however, that it is not opposed to establishing such a billing structure, but it estimates that the line-item billing requirement will cause additional reprogramming costs amounting to about ten thousand dollars (\$10,000).

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will delete the words "line-item" from subsection (8)(C) of the rule.

COMMENT: The Office of the Public Counsel stated that customer notification as to the potential cost of essential public services regulated by the commission is of paramount importance, and therefore supports the notice requirements in section (8) of the proposed rule. It said the requirement of subsection (8)(C) that the ISRS charge be set out separately on a customer's bill is consistent with the goal of providing bills with a clear and concise format, and said that since the ISRS is a separate tariffed rate, it cannot be simply combined with other tariffed rates.

RESPONSE AND EXPLANATION OF CHANGE: The commis-

sion agrees with the comment. The commission will revise section (8) of the proposed rule, to make it consistent with section (9) of the proposed rule, by requiring that the notices submitted pursuant to section (9) be approved by the commission before they are sent to the water corporation's customers. In addition, in section (7), the words "provide notice" will be changed to "publish notice," to make it consistent with section 393.1006.1(2), RSMo.

COMMENT: The Office of the Public Counsel recommended that the provisions of section (9) be expanded to permit the OPC to submit comments on the proposed notice that the water corporation provides to the commission.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees, and will insert language to permit the Office of the Public Counsel to submit comments within ten (10) days after the water corporation's filing. Allowing the Office of the Public Counsel to submit comments is consistent with commission practice and will facilitate the consideration of an application for an ISRS. The commission will also insert the words "or rejection" after the word "approval," to clarify that the commission may reject notices that do not comply with the rule.

COMMENT: The staff of the Public Service Commission recommended that four (4) changes be made to sections (8) and (9), for purposes of clarification and/or in response to comments received. It suggested that: the phrase "explaining how it will calculate its ISRS" be deleted from subsection (8)(A); the term "line-item" be deleted from subsection (8)(C); the term "initial, one-time" be deleted from subsection (9)(A); and that the word "annual" be deleted from subsection (9)(B).

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and will make the recommended changes.

COMMENT: Missouri-American Water Company stated that the provision of section (11) of the proposed rule that authorizes the staff of the commission to examine the information provided by the water corporation to determine whether the underlying costs comply with the provisions of the rule as well as House Bill 208 violates the provisions of section 393.1006.2(2), RSMo, which states that the only information that the staff may examine is that which is necessary to confirm whether the costs are in accordance with House Bill 208. Missouri-American states that that the same deficiency exists in section (13) of the proposed rule, which would require water corporations who seek an ISRS to comply with not only House Bill 208, but also with the proposed rule. Missouri-American states that the words "the provisions of this rule and" should be deleted from section (11), and the words "this rule and" should be deleted from section (13).

RESPONSE AND EXPLANATION FOR CHANGE: The commission agrees and will make the following changes. In section (11), the words "are in accordance with the provisions of this rule and sections 393.1000 to 393.1006, RSMo," will be deleted and the words "provides pursuant to the provisions of this rule and sections 393.1000 to 393.1006, RSMo," will be inserted after the words "eligible water utility." These changes are made to show that the water corporation must supply information in accordance with the rule, but the rule does not change the criteria for evaluating the information that is supplied. The commission will also delete the words "this rule and" from section (13), for the same reasons.

COMMENT: The Office of the Public Counsel recommended that, for purposes of clarification, the statutory words "pursuant to the provisions of sections 393.1000 to 393.1006" be inserted after the word "commission" at the end of proposed section (13).

RESPONSE: The commission has reviewed the recommendation of the Public Counsel, and will not make the suggested change, which would unnecessarily repeat the section's prior reference to the same statutory sections.

COMMENT: The staff of the Public Service Commission recommended that two (2) changes be made to sections (10) and (13), for purposes of clarification and/or in response to comments received. It suggested that: a reference to the applicable statutory provisions be inserted in section (10); and that the phrase “this rule and” be deleted from the first line of section (13).

RESPONSE AND EXPLANATION FOR CHANGE: The commission agrees and will make the recommended changes, as described above.

COMMENT: Missouri-American Water Company contended that the words “with the first such period beginning on the effective date of the rate schedules that establish an initial ISRS,” which are included in section (14) of the proposed rule, are inconsistent with the provisions of section 393.1006.3, and should be deleted, because they may intimate a limitation on a water corporation’s ability to seek an ISRS.

RESPONSE: The commission has reviewed the change suggested by Missouri-American and will not incorporate the recommended change into the rule. The language that Missouri-American sought to delete provides clarification about the computation of time associated with implementation of the rule and does not limit a water corporation’s ability to seek an ISRS.

COMMENT: The Office of the Public Counsel noted that section (16) of the proposed rule does not refer to the consumer protection provision of sections 393.1006.8 and 393.1006.9, which provide that ISRS charges for plant investment that is subsequently found to be imprudent be excluded during a general rate proceeding. OPC states that it is unclear what happens to ISRS charges that are associated with imprudent plant investment. It believes that these statutory references to rate case reviews of prudence are vital to protect consumers, and should be included in the rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered this suggested change and notes that the focus of the proposed rule is on the provisions under which the commission will address the filing and processing of ISRS petitions. The commission is not, however, opposed to reproducing this statutory provision in the proposed rule. A new section (14) has been added to the proposed rule to address this suggested change, and succeeding sections have been renumbered accordingly.

COMMENT: The Office of the Public Counsel noted that section (17) of the proposed rule does not refer to the consumer protection provision of sections 393.1006.8 and 393.1006.9, which provide that ISRS charges for plant investment that is subsequently found to be imprudent be excluded during a general rate proceeding. OPC added that the new statute does not address how any overrecovery or underrecovery that exists after the ISRS has been rebased to zero should be reflected on customer bills. It suggests that language be added to explain how the unreconciled amount could be handled in a manner that is consistent with the statute.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered this comment and agrees that the proposed rule does not provide sufficient guidance on how unreconciled ISRS amounts will be addressed after general rate case proceedings. The commission has added language to sections (17) and (18) to require the water corporation to track such overrecovery or underrecovery, for consideration in the water corporation’s next ISRS filing that it submits pursuant to the provisions of section (2) of the rule.

COMMENT: Missouri-American Water Company commented that subsection (18)(G) of the proposed rule seeks to impermissibly change the meaning of the words “net original cost of eligible infrastructure system replacements,” as used in section 393.1000.1 (a), RSMo, by appearing to define “net original cost of infrastructure system replacements” to mean “total cost [of such replacements] less the net book value of any related facility retirements.” Missouri-

American states that there is nothing in the language of House Bill 208 to suggest that “the net book value of related facility retirements” may be considered when calculating ISRS revenues. It contends that it is untenable to suggest that the “net original cost of eligible infrastructure replacements” means something other than the original cost (net of depreciation) of the specific infrastructure replacement facilities that are eligible for inclusion in an ISRS. Missouri-American asserts that there is nothing in House Bill 208 to indicate that the net book value of noneligible infrastructure retirements may be considered when determining what level of ISRS revenues is needed to permit recovery of eligible infrastructure replacement costs.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and will make the following changes. The definition of “net original cost of eligible infrastructure system replacements,” which was shown in parentheses in the proposed rule, will be changed to read: “original cost of eligible infrastructure system replacements, net of the accumulated deferred income taxes and the accumulated depreciation associated with these replacements.” This corresponds with the apparent legislative intent that the accumulated deferred income taxes and accumulated depreciation offset be limited to the infrastructure system replacements that are the subject of the ISRS application. This definition will also be moved to paragraph 1 of subsection (1)(A), because when a rule defines terms, the definition should appear where the term is first used. Also, the words “related ISRS costs” will be changed to “ISRS costs related to the eligible replacements,” for the reasons mentioned above.

COMMENT: Missouri-American Water Company stated that subsections (18)(I), (M), and (N) of the proposed rule introduce additional items to be reviewed during the ISRS process beyond those provided for in House Bill 208. It added that while some of this information might be relevant in a prudence review that is conducted as part of a general rate case, it is not the kind of informational items that a utility should be required to provide when filing for an ISRS. It argued that these provisions are inconsistent with section 393.1006.2(2) and violate section 393.1006.10, and that they should be eliminated.

RESPONSE AND EXPLANATION OF CHANGE: The commission has reviewed the changes suggested by Missouri-American and will not incorporate the recommended change to subsection (18)(I) of the proposed rule. The information described in this subsection is needed to determine whether the project is ISRS-eligible and to properly determine the amount of the ISRS. The commission agrees that the informational items described in subsections (18)(M) and (N) of the proposed rule may not be required when a utility files for an ISRS, but finds that they are relevant in a prudence review. Therefore, the commission will allow this information to be provided in either a general rate case filing or in an ISRS filing. These two (2) subsections will be moved from section (18) of the proposed rule, to section (20) of the rule, which pertains to items that may be supplied in either an ISRS filing or in a general rate case filing.

COMMENT: The Office of the Public Counsel recommends adding language to subsection (18)(I) that mirrors the language in the proposed gas ISRS rule (proposed as 4 CSR 240-3.625(18) (M), (N), and (P)). OPC says this would facilitate verification that the property is eligible for inclusion in the ISRS determination.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees, in part, and will insert subsection (O), providing: “An explanation of how the infrastructure replacement projects associated with the ISRS do not increase revenues by directly connecting the infrastructure replacement to new customers.” The commission will also insert subsection (P), providing: “An explanation of when the infrastructure replacement projects associated with the ISRS were completed and became used and useful.” The additional subsections will facilitate the determination of whether property is ISRS-eligible.

COMMENT: The Office of the Public Counsel stated that House Bill 208 requires water corporations to provide information that is not included among the list of items that section (18) of the proposed rule requires them to provide. The OPC recommends that section (18) of the proposed rule be modified to require that the accumulated depreciation expense and accumulated deferred income taxes associated with each ISRS-eligible property be provided with each ISRS filing, so they can be recognized in determining the amount of the ISRS.

RESPONSE: The commission appreciates the OPC's comments, but does not agree that the suggested changes are necessary, as it is likely that the referenced information will be provided in the workpapers showing how the petitioning water utility calculated its proposed ISRS.

COMMENT: The staff of the Public Service Commission recommended that five (5) changes be made to section (18), for purposes of clarification and/or in response to comments received. It suggested that: subsection (G) of the proposed rule be revised to better define the term "net original cost"; in subsection (H) of the proposed rule, the word "the" be inserted before the word "source"; in subsection (M) of the proposed rule, the words "incurred for" be substituted for the words "associated with," and the word "and" be deleted from the end of the subsection; the punctuation mark at the end of subsection (N) of the proposed rule be changed from a period to a semicolon; and that new subsections be added, to require water corporations to explain how the infrastructure replacement projects do not increase revenues by directly connecting to new customers, and when the infrastructure replacement projects became used and useful.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and will make the recommended changes. The reason for the change to subsection (G) is set forth above. The new subsections will be designated as subsections (19)(M) and (N) in the rule. The other changes are to improve clarity and grammar.

COMMENT: In comments at the public hearing on this rule, John Coffman, Public Counsel, suggested that this rule be consistent with the gas ISRS rule (4 CSR 240-3.625) to the extent appropriate for the different industries.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and will add subsections (20)(C) and (D) to the rule, to be consistent with the provisions of 4 CSR 240-3.625. Subsection (20)(C) will require the water corporation to submit an explanation of how long infrastructure had been in service before it was replaced or abandoned. Subsection (20)(D) will require the water corporation to submit information about the request for proposal (RFP) process used in selecting the entity that completed the infrastructure replacement projects. These informational items may be submitted either with the ISRS application or in the water corporation's next rate case, and are required for the commission's determination that the replacements were prudent.

4 CSR 240-3.650 Water Utility Petitions for Infrastructure System Replacement Surcharges

(1) As used in this rule, the following terms mean:

(A) Appropriate pretax revenues—the revenues necessary to:

1. Produce net operating income equal to the eligible water utility's weighted cost of capital multiplied by the net original cost of eligible infrastructure system replacements (original cost of eligible infrastructure system replacements, net of accumulated deferred income taxes and accumulated depreciation associated with the replacements), including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements that are included in a currently effective ISRS;

2. Recover state, federal, and local income or excise taxes applicable to such income; and

3. Recover all other ISRS costs;

(E) ISRS costs—annual depreciation expenses, and property taxes that will be due within twelve (12) months of the ISRS filing, on the total cost of eligible infrastructure system replacements, reduced by annual depreciation expenses and property taxes on any related facility retirements;

(7) Upon the filing of a petition seeking to establish or change an ISRS, the commission will publish notice of the filing.

(8) The eligible water utility shall provide the following notices to its customers, with such notices to be approved by the commission in accordance with section (9) of this rule before they are sent to the customers:

(A) An initial, one (1)-time notice to all potentially affected customers, with such notice to be sent to customers no later than when customers will receive their first bill that includes an ISRS, explaining the subject utility's infrastructure system replacement program, explaining how its ISRS will be applied to its various customer classes and identifying the statutory authority under which it is implementing its ISRS;

(C) A surcharge description on all affected customer bills, which informs the customers of the existence and amount of the ISRS on the bills.

(9) Within twenty (20) days of the eligible water utility's filing of a petition to establish an ISRS, the subject utility shall submit the following items to the commission for approval or rejection, and the office of the public counsel may, within ten (10) days of the water utility's filing, submit comments regarding these items to the commission:

(A) An example of the notice required by subsection (8)(A) of this rule;

(B) An example of the notice required by subsection (8)(B) of this rule; and

(C) An example customer bill showing how the ISRS will be described on affected customers' bills in accordance with subsection (8)(C) of this rule.

(10) When an eligible water utility files a petition pursuant to the provisions of this rule and sections 393.1000 to 393.1006, RSMo, the commission shall conduct an examination of the proposed ISRS.

(11) The staff of the commission may examine the information the eligible water utility provides pursuant to the provisions of this rule and sections 393.1000 to 393.1006, RSMo, to confirm the underlying costs related to and the proper calculation of the proposed ISRS, and may submit a report regarding its examination to the commission not later than sixty (60) days after the eligible water utility files its petition. The staff shall not examine any other revenue requirement or ratemaking issues in its consideration of the petition or associated proposed rate schedules.

(13) If the commission finds that a petition complies with the requirements of sections 393.1000 to 393.1006, RSMo, the commission shall enter an order authorizing the eligible water utility to impose an ISRS that is sufficient to recover appropriate pretax revenues, as determined by the commission.

(14) Commission approval of a petition, and any associated rate schedules, to establish or change an ISRS pursuant to sections 393.1000 to 393.1006, RSMo, shall in no way be binding upon the commission in determining the ratemaking treatment to be applied to eligible infrastructure system replacements during a subsequent

general rate proceeding when the commission may undertake to review the prudence of such costs. In the event the commission disallows recovery of costs associated with eligible infrastructure system replacements previously collected through an ISRS, as a part of its order in a subsequent general rate proceeding, the water utility shall offset its ISRS in the future as needed to recognize and account for any such disallowances. Nothing in this rule or section 393.1006, RSMo, shall be construed as limiting the authority of the commission to review and consider infrastructure system replacement costs along with other costs during any general rate proceeding of an eligible water utility.

(15) An eligible water utility may effectuate a change in an ISRS no more often than two (2) times during every twelve (12)-month period, with the first such period beginning on the effective date of the rate schedules that establish an initial ISRS. For the purposes of this section, an initial ISRS is the first ISRS granted to the subject utility or an ISRS established after an ISRS is reset to zero pursuant to the provisions of section (17) of this rule.

(16) At the end of each twelve (12)-month period that an ISRS is in effect, the eligible water utility shall reconcile the differences between the revenues resulting from the ISRS and the appropriate pretax revenues as found by the commission for that period, and shall submit the reconciliation and proposed ISRS rate schedule revisions to the commission for approval to recover or refund the difference, as appropriate.

(17) An eligible water utility that has implemented an ISRS shall file revised ISRS rate schedules to reset the ISRS to zero when new base rates and charges become effective following a commission order establishing customer rates in a general rate proceeding that incorporates eligible costs previously reflected in an ISRS into the subject utility's base rates. If an over or under recovery of ISRS revenues, including any commission ordered refunds, exists after the ISRS has been reset to zero, the amount of over or under recovery shall be tracked in an account and considered in the water utility's next ISRS filing that it submits pursuant to the provisions of section (2) of this rule.

(18) Upon the inclusion of eligible costs previously reflected in an ISRS in an eligible water utility's base rates, the subject utility shall immediately thereafter reconcile any previously unreconciled ISRS revenues as necessary to ensure that revenues resulting from the ISRS match, as closely as possible, the appropriate pretax revenues as found by the commission for that period, and shall track such revenues pursuant to the provisions of section (17) of this rule.

(19) At the time that an eligible water utility files a petition with the commission seeking to establish, change or reconcile an ISRS, it shall submit proposed ISRS rate schedules and its supporting documentation regarding the calculation of the proposed ISRS with the petition, and shall serve the office of the public counsel with a copy of its petition, its proposed rate schedules and its supporting documentation. The subject utility's supporting documentation shall include workpapers showing the calculation of the proposed ISRS, and shall include, at a minimum, the following information:

(A) The state, federal, and local income or excise tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;

(B) The regulatory capital structure used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that capital structure;

(C) The cost rates for debt and preferred stock used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those cost rates;

(D) The cost of common equity used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that equity cost;

(E) The property tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;

(F) The depreciation rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those depreciation rates;

(G) The costs that are eligible for recovery during the period in which the ISRS will be in effect, including the net original cost of the infrastructure system replacements and the amount of ISRS costs related to the eligible replacements; and a breakdown of the eligible replacements identified by work order or cost center for each of the following project categories:

1. Mains, and associated valves and hydrants, installed as replacements for existing facilities that have worn out or are in deteriorated condition;

2. Main cleaning and relining projects;

3. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States;

4. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of this state;

5. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of a political subdivision of this state; and

6. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of an entity other than the United States, this state or a political subdivision of this state, having the power of eminent domain;

(H) The applicable customer class billing determinants used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those billing determinants;

(I) An explanation of how the customers to whom the proposed ISRS will apply are benefiting from the water utility plant projects that will be recovered through the ISRS;

(J) An explanation of how the proposed ISRS is being prorated between affected customer classes, if applicable;

(K) An explanation of how the proposed ISRS is being applied in a manner consistent with the customer class cost-of-service study recognized by the commission in the subject utility's most recent general rate proceeding, if applicable;

(L) An explanation of how the proposed ISRS is being applied consistent with the rate design methodology utilized to develop the subject utility's rates resulting from its most recent general rate proceeding;

(M) An explanation of how the infrastructure replacement projects associated with the ISRS do not increase revenues by directly connecting the infrastructure replacement to new customers; and

(N) An explanation of when the infrastructure replacement projects associated with the ISRS were completed and became used and useful.

(20) In addition to the information required by section (19) of this rule, the eligible water utility shall also submit the following information, either when it submits the information required by section (19) of this rule or when it files its next general rate case:

(A) An explanation of the efforts to quantify and seek reimbursement for any costs associated with facility relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state or another entity having the power of eminent domain, which could offset the requested ISRS revenues;

(B) If any of the projects associated with the ISRS were funded through financing arrangements directed specifically to the projects,

an explanation of how the projects were funded, including the amount of debt and the interest rate on that debt;

(C) An explanation of how long any facilities that were replaced by eligible infrastructure system replacements had been in service when they were replaced or abandoned; and

(D) An explanation of the request for proposal (RFP) process used, or the reasons that a RFP process was not used, to select the entity that performed the infrastructure replacement projects associated with the ISRS.

(21) In addition to the information required by section (19) of this rule, the eligible water utility shall also provide the following information when it files a petition with the commission seeking to establish, change or reconcile an ISRS:

(A) A description of all information posted on the subject utility's website regarding the infrastructure system replacement surcharge and related infrastructure system replacement projects; and

(B) A description of all instructions provided to personnel at the subject utility's call center regarding how those personnel should respond to calls pertaining to the ISRS.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 13—Service and Billing Practices for
Residential Customers of Electric, Gas and
Water Utilities**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 393.140, RSMo 2000 and 393.130(1), RSMo Supp. 2003, the commission adopts a rule as follows:

4 CSR 240-13.035 is adopted.

A notice of the proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 1, 2003 (28 MoReg 2141-2144). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on January 26, 2004. The time for submission of written comments ended December 31, 2003. The commission received written comments from Kansas City Power & Light Company (KCPL); Laclede Gas Company (Laclede); Missouri Gas Energy (MGE); Ameren Services Company, Union Electric d/b/a AmerenUE (AmerenUE), and the staff of the commission. All of these utilities and Missouri American Water Company (MAWC) and the Office of the Public Counsel (OPC) attended the public hearing. At the public hearing, Lera L. Shemwell, Senior Counsel for the Staff of the Commission (staff), explained the development of the proposed amendments and presented the response of the commission staff to all written comments that were provided to the commission regarding the proposed rule. Staff's responses were in a written document that was marked Exhibit No. 1 and entered into the record. John Coffman, Public Counsel, Office of the Public Counsel, stated at the public hearing that OPC generally supported the rule as originally proposed with some slight modifications. At the public hearing Tim M. Rush, Director Regulatory Affairs, KCPL, and Michael A. Rump, Senior Attorney, Great Plains Energy Services (KCPL); Michael C. Pendergast, Vice President & Associate General Counsel, Laclede; James C. Swearingen and Brian T. McCartney, Attorneys for MGE and MAWC; and Thomas M. Byrne, Associate General Counsel, AmerenUE, all made additional comments on the record. The commission asked clarifying questions and commented.

COMMENT: The commission received four (4) comments concerning the need for the rule. KCPL, Laclede, and MGE commented generally that the scope and magnitude of inquiries and complaints concerning denial of service do not warrant promulgation of the proposed rule. AmerenUE indicated that it did not object to the concept of the rule. The staff indicated that the number of complaints regarding denial of service was increasing and that a rule similar to the discontinuance of service rule was necessary to protect consumers and to provide uniform standards for Missouri utility companies.

RESPONSE AND EXPLANATION OF CHANGE: This rule prescribes conditions under which utilities may refuse to commence service to an applicant for residential service and it establishes procedures to be followed by all regulated investor owned electric, gas and water utilities to ensure reasonable and uniform standards for denial of service to captive customers. The commission has statutory authority to promulgate rules governing how utilities provide service to the public. Case law is clear that the commission may choose whether to regulate by rulemaking or by some other method. The conditions under which a Missouri utility may refuse to provide service should be quite similar to the conditions for discontinuance of services. As a result of comments, several changes were made to section (1), including the additions of subsections (G), (H), and (I) to make the rule more similar to the discontinuance of service rule as provided by commission rule 4 CSR 240-13.050.

COMMENT: Four (4) utility companies, KCPL, Laclede, MGE and AmerenUE commented that: 1) the rule will increase the levels of uncollectible debt; 2) that the rule makes no provision for the recovery of the increased cost the utilities estimate that they may have to incur in order to comply with the rule; and 3) the rule is not revenue neutral which was both unfair to utilities and contrary to precedent before the commission and Missouri courts. At least one company said that if the commission adopted its suggestions for changes to the rule, the estimated cost of the rule would be significantly reduced. MGE suggested that its rates are lawful and that, by implication under section 386.270, the commission could not change rates in this rulemaking. Two (2) companies suggested that the rule amounts to an unconstitutional taking. Staff commented that monopoly utilities have an obligation to provide an essential service and should not be permitted to deny service to a customer in good standing because of a debt owed by another customer. The staff indicated that it is important to balance the needs of customers to receive an essential service, with the obligation of customers to pay for service that they receive, with the need to control bad debt expense, which is paid for by all customers. Staff further stated the courts have long held that a public utility has the duty to supply a commodity or furnish service to the public. This duty exists independently of statutes regulating the manner in which it shall do business, because the utility is organized to do business affected with a public interest and holds itself out to the public as being willing to serve all members of the public. A public utility is obligated by the nature of its business to furnish its service or commodity to the general public, or that part of the public that it has undertaken to serve. *Overman v. Southwestern Bell Telephone Co.*, 675 S.W.2d 419, 424 (Mo. App. 1984). Likewise, customers have an obligation to pay for the service that they use. If the individual customer does not pay, other customers pay a higher rate to cover uncollectibles.

RESPONSE AND EXPLANATION OF CHANGE: The commission has statutory authority to prescribe conditions for rendering public utility service and to assure that consumers receive safe and reliable service. The commission is authorized to promulgate rules for that purpose. The commission is not setting rates by engaging in rulemaking. As a result of comments, the commission will set November 1, 2004, as the implementation date for the rule, so that any increased costs may be considered in a pending rate case. In addition, the commission adopted other changes to section (1) by

adding subsections (G), (H) and (I), so that the rule more closely mirrored the discontinuance of service rule.

COMMENT: The commission received comments from KCPL, AmerenUE, and Laclede indicating that the denial of service rule should closely mirror the discontinuance of service rule and should: 1) include an exception for unauthorized interference, or diversion; 2) add failure to comply with a settlement agreement as a reason to deny service; and 3) include a provision that denial is permitted if the customer who owes a bill remains a tenant of the household when another person applies for service. Staff indicated that it agreed with addition of these provisions because the purpose of the rule is not to permit a customer to get service if the customer has diverted service, or failed to comply with a payment agreement into which they entered, or tried to engage in "name changing" to avoid payment to gain service. Staff stated that the rule is designed to protect customers who are otherwise in good standing from being forced to pay for the bill of another person prior to receiving service. Staff does not agree that a utility should be able to withhold service to a tenant because of a landlord's delinquent charges.

RESPONSE AND EXPLANATION OF CHANGE: As a result of these comments the commission added to section (1), subsections (G), (H), and (I) that correspond to the commission's Discontinuance of Service rule to make the Denial of Service rule more consistent with the Discontinuance of Service rule 4 CSR 240-13.050.

COMMENT: KCPL and Laclede commented concerning subsection (1)(A) of the proposed rule, that companies should be able to deny service for an applicant's failure to pay for service provided by that utility company or its affiliate in another state. KCPL urged removal of the language, "inside the state of Missouri" because customers should not be permitted to avoid the consequences of their delinquent bills by simply moving across state lines to other jurisdictions. KCPL commented that if the intent of subsection (2)(B) of the proposed rule was to restrict the transfer of prior debt that the proposed rule would significantly increase the cost of providing service to Missouri customers. The staff indicated that it agrees that a customer should not escape responsibility for payment of utility bills by crossing state lines. However, staff also commented that a utility should not deny a Missouri customer service because of a delinquent utility charge for service in another state, and, further, a utility still has all the rights it would have to collect the debt, except to deny utility service.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the comments, to assure that customers receive service, but to discourage customers from moving across state boundaries to avoid payment of utility bills, the commission will remove the phrase "inside the state of Missouri." The commission will change subsection (1)(A) to include failure to pay an undisputed delinquent utility charge for service provided by that utility or its regulated affiliate. The affiliate may be regulated by another state. The commission also changed the rule to define what constitutes a disputed bill.

COMMENT: KCPL commented that the rule violated section 393.140(5).

RESPONSE: The commission did not alter the rule as a result of this comment. Case law indicates that subsection (5) of section 393.140 deals primarily with ratemaking and not rulemaking.

COMMENT: The commission received comments concerning deposit requirements from Laclede indicating that if the deposit requirements are different in a company's tariffs, the company should be permitted to deny service as a result of failure to comply with its tariff requirements, as well as failure to post a required deposit or guarantee in accordance with 4 CSR 240-13.030. Staff agreed, in this case, that utility companies which have commission approved tariffs with deposit requirements that vary from commission rules,

should be permitted to apply those tariff provisions until those provisions become congruent with commission rules.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the comments, subsection (1)(B) of the rule was amended to include the phrase "or the utility's tariffs."

COMMENT: The commission received three (3) comments concerning denial of service if the customer refuses access to the company's equipment. AmerenUE, Laclede, and KCPL commented that in subsection (1)(C) of the proposed rule where the language reads "if the utility believes that health or safety is at risk," should be stricken because a utility should have access to its equipment and determine whether health or safety is at risk. Laclede commented that this is a time when customers are usually cooperative in providing access and it is important to get an initial meter reading when service is first requested. Laclede also commented that the term "fails" should be added, because a customer might not actively refuse but might fail to cooperate. Staff agreed that a utility company must have access to its equipment to read meters and check the condition of its equipment to assure that health and safety are not at risk. Staff agreed that a customer might fail to be available to provide access while still cooperating with the company.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the comments, the commission changed the rule to remove the phrase: "if the utility believes that health or safety is at risk" and added the term "fails" to the rule.

COMMENT: KCPL commented that: 1) paragraph (1)(C)1. of the proposed rule, which outlines notice that should be provided to a customer should inspection, maintenance, replacement or meter reading of the utility equipment be required before establishing service, should allow for written notice in the form of a door hanger left at the applicant's premises; 2) that the statement on the notice in Spanish should not be required; and 3) that the rule should make clear that this notice is only required if the customer refuses access to the company's equipment. Laclede commented that the requirement for a notification was unnecessary and that the requirement for notification in Spanish was not necessary. Staff agreed that allowing the utilities to provide written notice in the form of a door hanger left at the applicant's premises is a reasonable form of notification but does believe that the statement on the notice in Spanish should be included when the utility prints new notices.

RESPONSE AND EXPLANATION OF CHANGE: In response to the comments, the commission added a section permitting notice by door hanger and also added language clarifying that this notice provision applies when a customer refuses inspection or access to equipment. The commission will not change the requirement for the notice to contain an explanation in Spanish.

COMMENT: MGE commented that the proposed rule constitutes unlawful single-issue ratemaking in that it makes no provision to compensate MGE for revenues that will be lost due to nullification of section 3.02 of MGE's tariff. Staff does not agree with MGE that section 3.02 of MGE's tariff will be nullified, nor does the staff agree that the proposed rule constitutes single-issue ratemaking or that it eliminates the utility's right to collect debt; the proposed rule sets forth the conditions under which a utility may deny service.

RESPONSE AND EXPLANATION OF CHANGE: As a result of these comments, the commission will make the rule effective as of November 1, 2004.

COMMENT: Several commenters urged changes to the burden of proof section. AmerenUE commented that the burden of proof requirement should be changed because, as a practical matter, utilities do not have reliable evidence showing where each person in its service territory lives at any given moment. If utilities are required to meet this standard, they will seldom, if ever, be able to apply the benefit of service rule to collect outstanding debts, and these costs

will have to be borne by the utility's other customers. Several commenters stated that the applicant should know and be able to show where he or she has lived in the past and that an applicant can easily provide evidence, in the form of leases, other documents or even sworn statements that show exactly where he or she lived during the period of time in question. Staff commented that the utility still has the right to ask an applicant to provide information on a previous residence. The purpose of the proposed rule is to eliminate the additional information requested by utilities of the applicant in attempting to prove the applicant may have resided somewhere else and may have received benefit of service at that other residence. In addition, staff does not believe that customers should be required to give information about co-occupants. OPC stated that the rule could encourage applicants to lie about others living in the residence.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the comments, the commission has added language to the rule that states that the burden of proof shall not apply if the applicant refuses to cooperate in providing or obtaining information the applicant does or should have regarding the applicant's residence history.

COMMENT: AmerenUE commented that the proposed rule created a loophole by providing that the unpaid bill must not be "in dispute." AmerenUE said this provision would also make it virtually impossible for any utility to collect unpaid bills using the benefit of service rule; it stated that customers could avoid paying bills by simply continuing to dispute them indefinitely. The company offered an alternative to mitigate this loophole by requiring the unpaid bill to be subject of an open or informal complaint at the commission. The staff agrees that requiring that a disputed bill be the subject of a formal or informal complaint provides a verifiable standard for determining when a bill is in dispute. OPC was concerned that a customer should be able to have a dispute with the company and believes that the existence of a formal or informal complaint should be sufficient to invoke this provision.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the comments, the commission changed subsection (1)(A) of the rule to define what constitutes a disputed bill.

COMMENT: Laclede and AmerenUE commented that the proposed rule provides that applicants are only responsible for unpaid bills incurred within the last five (5) years. AmerenUE believed this to be an arbitrary limitation on an applicant's responsibility for an unpaid bill and is inconsistent with the rules concerning discontinuance of service, which contain no such limitation. AmerenUE believes customer responsibility for unpaid bills should be limited only by the applicable statutes of limitation, not shorter periods included in a commission rule; otherwise, these costs will ultimately have to be borne by other ratepayers, who bear no responsibility for the arrearage at all. Laclede states it is able to identify hundreds of thousands of dollars in undisputed bad debts that customers have been able to avoid paying by staying out of the system five (5) or more years. Staff commented that the requirement that the bill has been incurred in the past five (5) years only applies when an applicant is being asked to pay the bill of another customer in order to receive service. Utility companies should be encouraged to collect unpaid bills promptly and the rule does not have any effect on any other collection method that the utility might use.

RESPONSE AND EXPLANATION OF CHANGE: In an attempt to balance the needs of individual customers to receive service and the needs of all customers not to have increased bad debt expense, the commission has changed the requirement to seven (7) years.

COMMENT: KCPL, Laclede, and AmerenUE commented that section (3) of the proposed rule should be changed to require provision of service to an applicant as soon as possible with no specific requirement, or should be changed to allow for five (5) business days following the date specified by the applicant for commencement of service. KCPL commented that the rule should recognize that in

some circumstances additional time may be required due to unusual circumstances, and said that the time limitation set forth in the rule should only apply to existing service. KCPL, Laclede and AmerenUE stated that new service, which requires service line extension and meter installation, may take longer and that the five (5)-day window should only start after all inspections required as a precondition of service have been completed. Two (2) utilities stated that there should be a different standard for new residential construction. Laclede commented that the language should be clarified so that the deadline for commencing service only applies upon successful completion and acceptance of the prospective customer's application for service. Staff commented that the three (3) days should usually be sufficient time to connect service. There may be times when unusual circumstances occur, such as storms, where connection within three (3) days might not be possible. Staff recommended changing the rule to say "normally" the time for connection is three (3) days. Staff agrees that the three (3)-day requirement should not start until new construction of a service line extension and meter installation was complete and all inspections have been completed.

RESPONSE AND EXPLANATION OF CHANGE: As a result of these comments, the commission has changed the rule to clarify that the rule applies to residential service and that service should be supplied in accordance with the rule as close as reasonably possible to the day specified by the customer for service to commence, but normally no later than three (3) business days following the day specified by the customer for service to commence, provided that the customer has complied with all requirements of this rule. The commission also added language to provide that when service to a new residential service location is requested, the utility shall commence service in accordance with this rule as close as reasonably possible to the day specified by the customer for service to commence, but normally no later than three (3) business days following the day all required construction is completed and all inspections have been made.

COMMENT: KCPL and AmerenUE commented that the word "temporary" in section (4) of the proposed rule should be deleted, as it should be possible for a utility to permanently refuse service for health and safety reasons. AmerenUE felt one could construe the term "temporarily" as limiting the amount of time the utility can deny service in such situations. Staff stated that the term "temporarily" could be misconstrued if a long standing health and safety issue existed. Staff, therefore, did not object to the removal of the word "temporary."

RESPONSE AND EXPLANATION OF CHANGE: As a result of comments the commission has changed the rule to include language that the utility may refuse service if safety or health is at issue until the reason for such refusal has been resolved.

4 CSR 240-13.035 Denial of Service

(1) A utility may refuse to commence service to an applicant for any of the following reasons:

(A) Failure to pay an undisputed delinquent utility charge for services provided by that utility or by its regulated affiliate. To be considered to be disputed, the unpaid charge must be the subject of an open informal or formal complaint at the commission.

(B) Failure to post a required deposit or guarantee in accordance with 4 CSR 240-13.030 or the utility's tariffs;

(C) Refusal or failure to permit inspection, maintenance, replacement or meter reading of utility equipment. If the applicant does not provide access to the utility for such purposes, the utility shall provide notice to the applicant regarding its need for inspection, maintenance, replacement or meter reading of utility equipment and shall maintain an accurate record of the notice provided.

1. The notice shall include one (1) of the following:

A. Written notice by first class mail sent to the applicant; or

- B. Written notice delivered in hand to the applicant; or
- C. At least two (2) telephone call attempts reasonably calculated to reach the applicant; or
- D. Written notice in the form of a door hanger left at the applicant's premises.

2. The notice shall contain the following information:

- A. The name and address of the applicant and the address where service is being requested;
- B. How the applicant may comply with the requirements to have service connected;
- C. A telephone number the applicant may call from the service location without incurring toll charges and the address of the utility prominently displayed where the applicant may make an inquiry;
- D. A statement in Spanish either:
 - (I) Advising the applicant that if they do not read English, to ask someone who does to translate the notice for them; or
 - (II) Advising the applicant to call the utility for assistance if the utility provides telephone assistance in Spanish;
- E. If the applicant is unable to resolve the matter satisfactorily with the utility, they may contact the Public Service Commission;
- (D) Misrepresentation of identity;
- (E) Violation of any other rules of the utility approved by the commission which adversely affects the safety of the customer or other persons or the integrity of the utility's system;
- (F) As provided by state or federal law;
- (G) Failure of a previous owner or occupant of the premises to pay a delinquent utility charge where the previous owner or occupant remains an occupant;
- (H) Failure to comply with the terms of a settlement agreement; or
- (I) Unauthorized interference, diversion or use of the utility's service by the applicant, or by a previous owner or occupant who remains an occupant.

(2) A utility may not refuse to commence service to an applicant for any of the following reasons:

- (A) Failure to pay for merchandise, appliances or services not subject to commission jurisdiction as an integral part of the utility service provided by a utility;
- (B) Failure to pay the bill of another customer, unless the applicant who is seeking service received substantial benefit and use of the service to that customer, or unless the applicant is the legal guarantor for a delinquent bill. In this instance, the utility refusing to commence service, shall have the burden of proof to show that the applicant received substantial benefit and use of the service, or that the applicant is the legal guarantor, provided that such burden shall not apply if the applicant refuses to cooperate in providing or obtaining information it does or should have regarding the applicant's residence history. To meet that burden the utility must have reliable evidence that:

- 1. The applicant and that customer resided together at the premises where the bill was incurred and during the period the bill was incurred; and
- 2. The bill was incurred within the last seven (7) years; and
- 3. The utility has attempted to collect the unpaid bill from the customer of record; and
- 4. At the time of the request for service, the bill remains unpaid and not in dispute.

(3) The utility shall commence service at an existing residential service location in accordance with this rule as close as reasonably possible to the day specified by the customer for service to commence, but normally no later than, three (3) business days following the day specified by the customer for service to commence provided that the applicant has complied with all requirements of this rule. When service to a new residential location is requested, the utility shall commence service in accordance with this rule as close as reasonably possible to the day specified by the applicant for service to com-

mence, but normally no later than three (3) business days following the day that all required construction is completed and all inspections have been made.

(4) Notwithstanding any other provision of this rule, a utility may refuse to commence service temporarily for reasons of maintenance, health, safety or a state of emergency until the reason for such refusal has been resolved.

(5) Any provision of this rule may be waived or varied by the commission for good cause.

(6) The requirements of the rule shall be implemented by the utility no later than November 1, 2004.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions,
Sampling and Reference Methods and Air Pollution
Control Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-6.260 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 3, 2003 (28 MoReg 1911-1916). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received four (4) comments from four (4) sources: Kansas City Power and Light, City Utilities, Aquila and the Boeing Company.

COMMENT: Kansas City Power and Light (KP&L) commented that Table I referenced a state enforceable agreement for the Hawthorn and Montrose plants that established an annual sulfur dioxide emission rate rather than a three (3)-hour emission rate as indicated in the table.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, a change has been made to Table I.

COMMENT: City Utilities commented that there are two (2) errors in the proposed Table I values for the James River Power Station (JRPS). First, Table I indicates that the sulfur dioxide emission limit for JRPS Units 1, 2, 3, and 4 is 1.4 lb/million Btu; the consent agreement limit is 1.5 lb/million Btu. Second, the consent agreement expressed the sulfur dioxide emission limits on Units 1 through 5 as twenty-four (24)-hour block averages rather than the three (3)-hour averages, shown in Table I.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, a change has been made to Table I.

COMMENT: Aquila made the following comments on the proposed amendment. Table I changes the emission limitations for the facility listed as St. Joseph Light & Power—Lake Road Plant from 8.6 pounds of sulfur dioxide per million Btu to new limits. The consent decree sets the limit based on a twenty-four (24)-hour daily block average, however the proposed modification lists this as a three (3)-hour average. To be consistent with the conditions of the consent order, the averaging time period should be modified to a twenty-four

(24)-hour average. In Table I, boiler #6 at the Lake Road Plant is not listed as having a sulfur dioxide limit. However, the previously mentioned consent decree indicates a limit of one thousand four hundred (1,400) pounds of SO₂/hour based on a twenty-four (24)-hour average and it is suggested that another footnote be added to the table reading as follows—Boiler #6 at the Lake Road Plant is limited to a twenty-four (24)-hour daily block average of one thousand four hundred (1,400) pounds of SO₂/hour. In Table I, the Sibley Plant is listed as Missouri Public Service Company—Sibley Plant. The company name for Missouri Public Service has been changed to Aquila; therefore, it is suggested this listing be modified to read Aquila—Sibley Plant. The Lake Road Plant is listed as St. Joseph Light & Power. St. Joseph Light & Power has merged with Aquila and the surviving company name is Aquila; therefore, it is suggested the Lake Road Plant be modified to read Aquila—Lake Road Plant.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, a change has been made to Table I.

COMMENT: The Boeing Company makes the following comments. A proposed natural/LP gas exemption at (1)(B)3.C.(I) is unnecessarily narrow in scope. As proposed, it is only an exemption from the sulfur emission limits in subsection (3)(A), and not from the remainder of the rule. The proposed exemption is further narrowed by a requirement that the natural gas/LP combustion unit be rated at ten (10) million Btu per hour or less, and not emit more than one hundred fifty (150) pounds/day of any air contaminant. This language appears to be lifted from the Missouri construction permit rule, but it has no relevance in this context. Combustion sources burning only these fuels are incapable of emitting sulfur compounds anywhere close to the lowest emission rate limitations contained in the Missouri rule. Combustion equipment that burns exclusively natural or LP gas should be explicitly and clearly exempted from this sulfur rule.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment a change has been made in subsection (1)(A) and (1)(B). The applicability section of the rule will exempt combustion equipment that exclusively uses pipeline grade natural gas and/or liquefied petroleum gas.

10 CSR 10-6.260 Restriction of Emission of Sulfur Compounds

(1) Applicability.

(A) This rule applies to any installation that is an emission source of sulfur compounds, except—

1. Emission sources subject to an applicable sulfur compound emission limit under 10 CSR 10-6.070; or

2. Combustion equipment that uses exclusively pipeline grade natural gas as defined in 40 CFR 72.2. or liquefied petroleum gas as defined by American Society for Testing and Materials (ASTM), or any combination of these fuels.

(B) Subsection (3)(A) of this rule shall apply to all sulfur compound emissions except—

1. Indirect heating sources; or

2. Existing lead smelting and/or refining sources.

(3) General Provisions.

(C) Restriction of Emission of Sulfur Dioxide from Indirect Heating Sources.

1. Subsection (3)(C) of this rule applies to installations in which fuel is burned for the primary purpose of producing steam, hot water or hot air or other indirect heating of liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

2. Indirect heating sources located in Missouri, other than in Franklin, Jefferson, St. Louis, St. Charles Counties or City of St. Louis.

A. No person shall cause or allow emissions of sulfur dioxide into the atmosphere from any indirect heating source in excess of eight pounds (8 lbs.) of sulfur dioxide per million Btus actual heat input averaged on any consecutive three (3)-hour time period unless that source is listed in Table I or subject to a provision of 10 CSR 10-6.070 New Source Performance Regulations with an applicable sulfur compound emission limit.

B. The following existing indirect heating sources listed in Table I shall limit their average sulfur emissions into the atmosphere to the allowable amount of sulfur dioxide per million Btus of actual heat input averaged on any consecutive three (3)-hour basis.

Table I

Facility	Averaging Time	Emission Rate per Unit (Pounds Sulfur Dioxide Per Million Btus)
Associated Electric Cooperative—New Madrid	3 hours	10.0
Associated Electric Cooperative—Thomas Hill	3 hours	8.0
Central Electric Power Cooperative—Chamois	3 hours	6.7
City Utilities—James River Plant*	24 hours	(Units 1–4) 1.5 (Unit 5) 2.0
Empire District Electric Company—Asbury Station	3 hours	12.0
Independence Power and Light—Blue Valley Station	3 hours	6.3
Trigen—Grand Ave. Plant	3 hours	7.1
Kansas City Power & Light—Hawthorn Plant*	Annual	1.3
Kansas City Power & Light—Montrose Station*	Annual	1.3
Aquila—Sibley Plant	3 hours	9.0
Aquila—Lake Road Plant*	24 hours	(Boilers 1, 2, and 4) 0.0524 (Boiler 3) 0.0006 (Boiler 5) 1.3490 (Boiler 6)** (Combustion Turbines 5, 6, and 7) 0.0511
University of Missouri—Columbia	3 hours	8.0

* Facility is subject to State Enforceable Agreement.

** Boiler 6 at the Lake Road Plant is limited to a 24-hour daily block average of 1,400 pounds of SO₂/hour.

C. Compliance with paragraph (3)(C)2. of this rule shall be determined by source testing as specified in subsection (5)(B) of this rule.

D. Other methods approved by the staff director in advance may be used.

E. Owners or operators of sources and installations subject to paragraph (3)(C)2. of this rule shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

3. Indirect heating sources located in Franklin, Jefferson, St. Louis, St. Charles Counties or City of St. Louis.

A. Restrictions applicable to installations with a capacity of two thousand (2,000) million or more Btus per hour.

(I) No person shall cause or permit the emission of sulfur dioxide to the atmosphere from any installation with a capacity of two thousand (2,000) million or more Btus per hour in an amount greater than two and three-tenths pounds (2.3 lbs.) of sulfur dioxide per million Btus of actual heat input averaged on any consecutive three (3)-hour time period unless that source is listed in part (3)(C)3.A.(II) of this rule or is subject to a provision of 10 CSR 10-6.070 New Source Performance Regulations with an applicable sulfur compound emission limit.

(II) The following existing installations shall limit their sulfur dioxide emissions into the atmosphere from the combustion of any fuels to the allowable amount of sulfur dioxide per million Btus of actual heat input listed:

Facility	Emission Rate per Unit* (Pounds Sulfur Dioxide Per Million Btus)
Ameren UE—Labadie Plant	4.8
Ameren UE—Portage des Sioux Plant	4.8

*Daily average, 00:01 to 24:00

(III) Owners or operators of sources and installations subject to paragraph (3)(C)3. of this rule shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

(IV) Each source subject to limitations under subparagraph (3)(C)3.A. of this rule may emit sulfur dioxide at a rate not to exceed the allowable emission rate by more than twenty percent (20%) for not more than three (3) days in any one (1) month.

(V) Compliance with part (3)(C)3.A.(II) of this rule shall be demonstrated by sulfur dioxide and either carbon dioxide or oxygen continuous monitoring devices, which devices, within ninety (90) days of the date part (3)(C)3.A.(II) of this rule becomes effective (July 12, 1979) as to any source or before January 1, 1982, in the case of Ameren UE Company's Labadie Plant, shall be certified by the owner or operator to be installed and operational in accordance with Performance Specifications 2 and 3, 40 CFR part 60, Appendix B. The devices shall also be operated and maintained in accordance with the procedures and standards set out at 40 CFR 60.13(d) and (e)(2).

(VI) Reports shall be as specified in section (4) of this rule.

B. Restrictions applicable to installations with a capacity of less than two thousand (2,000) million Btus per hour.

(I) During the months of October, November, December, January, February and March of every year, no person shall burn or permit the burning of any coal containing more than two percent (2%) sulfur or of any fuel oil containing more than two percent (2%) sulfur in any installation having a capacity of less than two thousand (2,000) million Btus per hour. Otherwise, no person shall burn or permit the burning of any coal or fuel oil containing more than four

percent (4%) sulfur in any installation having a capacity of less than two thousand (2,000) million Btus per hour.

(II) Part (3)(C)3.B.(I) of this rule shall not apply to any installation if it can be shown that emissions of sulfur dioxide from the installation into the atmosphere will not exceed two and three-tenths (2.3) pounds per million Btus of heat input to the installation.

(III) Owners or operators of sources and installations subject to this section shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

C. Compliance with paragraph (3)(C)3. of this rule shall be determined by source testing as specified in subsection (5)(B) of this rule.

D. Other methods approved by the staff director in advance may be used.

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 80—Missouri State Water Patrol Chapter 9—Mandatory Boater Safety Education Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Public Safety in section 650.005, RSMo 2000, the department adopts a rule as follows:

11 CSR 80-9.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 2, 2004 (29 MoReg 44-49). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No written comments were received; however, one verbal comment was received on the proposed rule.

COMMENT: Mr. Randy Scherr of R.J. Scherr and Associates suggested we consider deleting section (6) from our proposed rule because it would create a new law beyond the scope of our rulemaking authority.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the discussion with Mr. Scherr, the department agrees with Mr. Scherr and has chosen to delete section (6) and renumber the remaining sections accordingly.

11 CSR 80-9.010 Mandatory Boater Safety Education Program

(6) As used in section 306.127, RSMo, subsection 4, paragraph 8, the term "previously" means prior to January 1, 2005, but does not exempt the boat operator from the requirement to carry the certification card.

(7) Every non-resident boat operator pursuant to section 306.127 or 306.128, RSMo shall possess a boating safety certification card from their home state, United States Coast Guard Auxiliary, U.S. Power Squadron, or the Missouri State Water Patrol.

(8) Every resident boat operator pursuant to section 306.127 or 306.128, RSMo shall possess a certification card issued by the Missouri State Water Patrol.

Title 12—DEPARTMENT OF REVENUE Division 10—Director of Revenue Chapter 41—General Tax Provisions

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 32.065, RSMo 2000, the director amends a rule as follows:

12 CSR 10-41.010 Annual Adjusted Rate of Interest is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 15, 2004 (29 MoReg 90-91). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 1—Organization**

ORDER OF RULEMAKING

By the authority vested in the secretary of state under section 536.023, RSMo 2000, the secretary rescinds a rule as follows:

15 CSR 30-1.010 General Organization is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2034). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 1—Organization**

ORDER OF RULEMAKING

By the authority vested in the secretary of state under section 536.023, RSMo 2000, the secretary adopts a rule as follows:

15 CSR 30-1.010 General Organization is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2034-2037). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 100—Division of Credit Unions**

**APPLICATIONS FOR NEW GROUPS OR
GEOGRAPHIC AREAS**

Pursuant to section 370.081(4), RSMo 2000, the director of the Missouri Division of Credit Unions is required to cause notice to be published that the following credit unions have submitted applications to add new groups or geographic areas to their membership.

Credit Union	Proposed New Group or Geographic Area
Health Care Family Credit Union 2114 South Big Bend St. Louis, MO 63117	Persons and families of persons who reside in or are employed in the 63143 zip code area; a low -income area.

NOTICE TO SUBMIT COMMENTS: Anyone may file a written statement in support of or in opposition to any of these applications. Comments shall be filed with: Director, Division of Credit Unions, PO Box 1607, Jefferson City, MO 65102. To be considered, written comments must be submitted no later than ten (10) business days after publication of this notice in the Missouri Register.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program**

EXPEDITED APPLICATION REVIEW SCHEDULE

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. A decision is tentatively scheduled for April 22, 2004. These applications are available for public inspection at the address shown below:

Date Filed

Project Number: Project Name
City (County)
Cost, Description

02/19/04

#3597 HS: Saint Louis University Hospital
St. Louis (St. Louis City)
\$2,952,000, Replace positron emission tomography (PET) unit with a PET/CT unit

03/10/04

#3604 RS: Mapletree Terrace Assisted Living
Carthage (Jasper County)
\$400,000, Replace 13 residential care facility II beds

Any person wishing to request a public hearing for the purpose of commenting on these applications must submit a written request to this effect, which must be received by April 12, 2004. All written requests and comments should be sent to:

Chairman
Missouri Health Facilities Review Committee
c/o Certificate of Need Program
915 G Leslie Boulevard
Jefferson City, MO 65101

For additional information contact
Donna Schuessler, 573-751-6403.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program**

APPLICATION REVIEW SCHEDULE

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. A decision is tentatively scheduled for the May 24, 2004, Certificate of Need meeting. These applications are available for public inspection at the address shown below:

Date Filed

Project Number: Project Name
City (County)
Cost, Description

03/11/04

#3605 NS: Manor Grove
Kirkwood (St. Louis County)
\$3,560,000, Modernize facility and add ten skilled nursing facility beds

03/12/04

#3587 FS: Kansas City Oncology Hematology Group
Kansas City and Lee's Summit (Jackson County)
\$1,825,000, Replace mobile PET scanner with a mobile PET/CT scanner

Any person wishing to request a public hearing for the purpose of commenting on any of these applications must submit a written request to this effect, which must be received by April 14, 2004. All written requests and comments should be sent to:

Chairman
Missouri Health Facilities Review Committee
c/o Certificate of Need Program
915 G Leslie Boulevard
Jefferson City, MO 65101

For additional information contact
Donna Schuessler, 573-751-6403.

Contractor Debarment List

Name of Contractor	Name of Officer and Title	Address	Date of Conviction	Debarment Period
Bruner Contracting Company	Cynthia Bruner	218 Delaware, Ste. 211 Kansas City, MO 64105	9/9/03	9/9/03-9/9/04
Cynthia Bruner	N/A	218 Delaware, Ste. 211 Kansas City, MO 64105	9/9/03	9/9/03-9/9/04

The Secretary of State is required by sections 347.141 and 359.481, RSMo 2000 to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript.

NOTICE OF DISSOLUTION OF CORPORATION

NOTICE OF DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST EXECUTIVE RECRUITERS, INC., a Missouri corporation.

On October 30, 2003, Executive Recruiters, Inc., a Missouri corporation, filed its Articles of Dissolution with the Missouri Secretary of State. Dissolution was effective on November 3, 2003.

Said corporation requests that all persons and organizations with claims against it present them immediately by letter to the corporation at Yates & May, L.C., Interco Corporate Tower, 101 S. Hanley, Suite 1025, St. Louis, MO 63105.

All claims must include: the name and address of the claimant; the amount claimed; the nature of the claim; the date(s) on which the claim arose; and the alleged monetary value of the claim.

NOTICE: Because of the dissolution of Executive Recruiters, Inc., any claims against it will be barred unless a proceeding to enforce the claim is commenced within two years after the publication date of the notice authorized by statute.

Date of Publication: April 15, 2004.

Rule Changes Since Update to Code of State Regulations

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—27 (2002), 28 (2003) and 29 (2004). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
1 CSR 10	OFFICE OF ADMINISTRATION State Officials' Salary Compensation Schedule				27 MoReg 189 27 MoReg 1724 28 MoReg 1861
1 CSR 10-4.010	Commissioner of Administration		28 MoReg 1557		
1 CSR 20-4.010	Personnel Advisory Board and Division of Personnel		This Issue		
1 CSR 35-1.050	Division of Facilities Management	28 MoReg 1983	28 MoReg 1990	29 MoReg 401	
1 CSR 35-2.030	Division of Facilities Management	28 MoReg 1984	28 MoReg 1993	29 MoReg 401	
DEPARTMENT OF AGRICULTURE					
2 CSR 10-2.010	Market Development		28 MoReg 2087	29 MoReg 482	
2 CSR 30-1.010	Animal Health		This Issue		
2 CSR 30-1.020	Animal Health		This Issue		
2 CSR 30-2.020	Animal Health	This Issue	This Issue		
2 CSR 30-2.040	Animal Health	This Issue	This Issue		
2 CSR 30-3.020	Animal Health	This Issue	This Issue		
2 CSR 30-6.020	Animal Health	This Issue	This Issue		
2 CSR 90-11.010	Weights and Measures	28 MoReg 2207	28 MoReg 2211	This Issue	
2 CSR 90-30.050	Weights and Measures		28 MoReg 2211	This Issue	
DEPARTMENT OF CONSERVATION					
3 CSR 10-6.533	Conservation Commission		29 MoReg 161		
3 CSR 10-6.550	Conservation Commission		29 MoReg 161		
3 CSR 10-9.220	Conservation Commission		28 MoReg 2212	29 MoReg 401	
3 CSR 10-9.353	Conservation Commission		29 MoReg 162	This Issue	
3 CSR 10-9.565	Conservation Commission		28 MoReg 2018	29 MoReg 216	
3 CSR 10-10.722	Conservation Commission		This Issue		
3 CSR 10-10.725	Conservation Commission		29 MoReg 162		
3 CSR 10-10.725	Conservation Commission		29 MoReg 164		
3 CSR 10-12.145	Conservation Commission		28 MoReg 2025	29 MoReg 219	29 MoReg 505
3 CSR 10-20.805	Conservation Commission		This Issue		
DEPARTMENT OF ECONOMIC DEVELOPMENT					
4 CSR 10-1.010	Missouri State Board of Accountancy		28 MoReg 2089		
4 CSR 10-1.030	Missouri State Board of Accountancy		This Issue		
4 CSR 10-1.030	Missouri State Board of Accountancy		28 MoReg 2090		
4 CSR 10-1.040	Missouri State Board of Accountancy		This Issue		
4 CSR 10-1.040	Missouri State Board of Accountancy		28 MoReg 2091R		
4 CSR 10-2.005	Missouri State Board of Accountancy		This Issue		
4 CSR 10-2.005	Missouri State Board of Accountancy		28 MoReg 2091R		
4 CSR 10-2.005	Missouri State Board of Accountancy		28 MoReg 2091		
4 CSR 10-2.005	Missouri State Board of Accountancy		This IssueR		
4 CSR 10-2.005	Missouri State Board of Accountancy		This Issue		
4 CSR 10-2.010	Missouri State Board of Accountancy		28 MoReg 2092R		
4 CSR 10-2.010	Missouri State Board of Accountancy		This IssueR		
4 CSR 10-2.021	Missouri State Board of Accountancy		28 MoReg 2093R		
4 CSR 10-2.021	Missouri State Board of Accountancy		This IssueR		
4 CSR 10-2.030	Missouri State Board of Accountancy		28 MoReg 2093R		
4 CSR 10-2.030	Missouri State Board of Accountancy		This IssueR		
4 CSR 10-2.041	Missouri State Board of Accountancy		28 MoReg 2093		
4 CSR 10-2.041	Missouri State Board of Accountancy		This Issue		
4 CSR 10-2.042	Missouri State Board of Accountancy		28 MoReg 2094R		
4 CSR 10-2.042	Missouri State Board of Accountancy		This IssueR		
4 CSR 10-2.051	Missouri State Board of Accountancy		28 MoReg 2094		
4 CSR 10-2.051	Missouri State Board of Accountancy		This Issue		
4 CSR 10-2.061	Missouri State Board of Accountancy		28 MoReg 2099		
4 CSR 10-2.061	Missouri State Board of Accountancy		This Issue		
4 CSR 10-2.062	Missouri State Board of Accountancy		28 MoReg 2100R		
4 CSR 10-2.062	Missouri State Board of Accountancy		This IssueR		
4 CSR 10-2.070	Missouri State Board of Accountancy		28 MoReg 2101		
4 CSR 10-2.070	Missouri State Board of Accountancy		This Issue		
4 CSR 10-2.072	Missouri State Board of Accountancy		28 MoReg 2102		
4 CSR 10-2.072	Missouri State Board of Accountancy		This Issue		
4 CSR 10-2.075	Missouri State Board of Accountancy		28 MoReg 2105		
4 CSR 10-2.075	Missouri State Board of Accountancy		This Issue		
4 CSR 10-2.095	Missouri State Board of Accountancy		28 MoReg 2108		
4 CSR 10-2.095	Missouri State Board of Accountancy		This Issue		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 10-2.101	Missouri State Board of Accountancy		28 MoReg 2109 This IssueR		
4 CSR 10-2.111	Missouri State Board of Accountancy		28 MoReg 2110R This IssueR		
4 CSR 10-2.112	Missouri State Board of Accountancy		28 MoReg 2110R This IssueR		
4 CSR 10-2.115	Missouri State Board of Accountancy		28 MoReg 2110R This IssueR		
4 CSR 10-2.120	Missouri State Board of Accountancy		28 MoReg 2111R This IssueR		
4 CSR 10-2.130	Missouri State Board of Accountancy		28 MoReg 2111 This Issue		
4 CSR 10-2.135	Missouri State Board of Accountancy		28 MoReg 2112 This Issue		
4 CSR 10-2.140	Missouri State Board of Accountancy		28 MoReg 2112 This Issue		
4 CSR 10-2.150	Missouri State Board of Accountancy		28 MoReg 2115 This Issue		
4 CSR 10-2.160	Missouri State Board of Accountancy		28 MoReg 2115 This Issue		
4 CSR 10-2.180	Missouri State Board of Accountancy		28 MoReg 2116R This IssueR		
4 CSR 10-2.190	Missouri State Board of Accountancy		28 MoReg 2116R This IssueR		
4 CSR 10-2.200	Missouri State Board of Accountancy		28 MoReg 2116 This Issue		
4 CSR 10-2.210	Missouri State Board of Accountancy		28 MoReg 2117R This IssueR		
4 CSR 10-2.215	Missouri State Board of Accountancy		28 MoReg 2117R This IssueR		
4 CSR 10-3.010	Missouri State Board of Accountancy		28 MoReg 2117 This Issue		
4 CSR 10-3.020	Missouri State Board of Accountancy		28 MoReg 2118R This IssueR		
4 CSR 10-3.030	Missouri State Board of Accountancy		28 MoReg 2118R This IssueR		
4 CSR 10-3.040	Missouri State Board of Accountancy		28 MoReg 2119R This IssueR		
4 CSR 10-3.060	Missouri State Board of Accountancy		28 MoReg 2119 This Issue		
4 CSR 10-4.010	Missouri State Board of Accountancy		28 MoReg 2120R 28 MoReg 2120 This IssueR This Issue		
4 CSR 10-4.020	Missouri State Board of Accountancy		28 MoReg 2124R 28 MoReg 2124 This IssueR This Issue		
4 CSR 10-4.030	Missouri State Board of Accountancy		28 MoReg 2124R This IssueR		
4 CSR 10-4.031	Missouri State Board of Accountancy		28 MoReg 2124 This Issue		
4 CSR 10-4.040	Missouri State Board of Accountancy		28 MoReg 2125R This IssueR		
4 CSR 10-4.041	Missouri State Board of Accountancy		28 MoReg 2125 This Issue		
4 CSR 10-4.050	Missouri State Board of Accountancy		28 MoReg 2125R This IssueR		
4 CSR 10-5.070	Missouri State Board of Accountancy		28 MoReg 2126		
4 CSR 10-5.080	Missouri State Board of Accountancy		28 MoReg 2126		
4 CSR 10-5.090	Missouri State Board of Accountancy		28 MoReg 2130		
4 CSR 10-5.100	Missouri State Board of Accountancy		28 MoReg 2130		
4 CSR 10-5.110	Missouri State Board of Accountancy		28 MoReg 2131		
4 CSR 15-1.030	Acupuncturist Advisory Committee		This Issue		
4 CSR 15-2.020	Acupuncturist Advisory Committee		This Issue		
4 CSR 15-3.010	Acupuncturist Advisory Committee		This Issue		
4 CSR 15-4.020	Acupuncturist Advisory Committee		This Issue		
4 CSR 30-2.040	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		This Issue		
4 CSR 30-11.025	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		This Issue		
4 CSR 70-4.010	State Board of Chiropractic Examiners		29 MoReg 88		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 70-4.030	State Board of Chiropractic Examiners		29 MoReg 88		
4 CSR 90-3.010	State Board of Cosmetology		28 MoReg 2133	29 MoReg 482	
4 CSR 90-5.010	State Board of Cosmetology		28 MoReg 2133	29 MoReg 482	
4 CSR 90-7.010	State Board of Cosmetology		28 MoReg 2133	29 MoReg 482	
4 CSR 90-8.010	State Board of Cosmetology		28 MoReg 2134	29 MoReg 483	
4 CSR 90-10.010	State Board of Cosmetology		28 MoReg 2134	29 MoReg 483	
4 CSR 90-11.010	State Board of Cosmetology		28 MoReg 2134	29 MoReg 483	
4 CSR 90-12.020	State Board of Cosmetology		28 MoReg 2137	29 MoReg 483	
4 CSR 90-12.070	State Board of Cosmetology		28 MoReg 2137	29 MoReg 483	
4 CSR 90-13.010	State Board of Cosmetology		28 MoReg 2137	29 MoReg 483	
4 CSR 100	Division of Credit Unions				29 MoReg 338 29 MoReg 505 29 MoReg 544 This Issue
4 CSR 110-2.130	Missouri Dental Board		29 MoReg 89		
4 CSR 110-3.010	Missouri Dental Board		This Issue		
4 CSR 110-3.020	Missouri Dental Board		This Issue		
4 CSR 110-3.030	Missouri Dental Board		This Issue		
4 CSR 110-3.040	Missouri Dental Board		This Issue		
4 CSR 110-3.050	Missouri Dental Board		This Issue		
4 CSR 120-1.010	State Board of Embalmers and Funeral Directors		29 MoReg 165		
4 CSR 120-1.020	State Board of Embalmers and Funeral Directors		29 MoReg 165		
4 CSR 120-1.040	State Board of Embalmers and Funeral Directors		29 MoReg 166		
4 CSR 120-2.010	State Board of Embalmers and Funeral Directors		29 MoReg 167R 29 MoReg 167		
4 CSR 120-2.020	State Board of Embalmers and Funeral Directors		29 MoReg 174		
4 CSR 120-2.022	State Board of Embalmers and Funeral Directors		29 MoReg 174		
4 CSR 120-2.030	State Board of Embalmers and Funeral Directors		29 MoReg 175		
4 CSR 120-2.040	State Board of Embalmers and Funeral Directors		29 MoReg 175R 29 MoReg 175		
4 CSR 120-2.050	State Board of Embalmers and Funeral Directors		29 MoReg 180		
4 CSR 120-2.060	State Board of Embalmers and Funeral Directors		29 MoReg 180R 29 MoReg 180		
4 CSR 120-2.070	State Board of Embalmers and Funeral Directors		29 MoReg 186R 29 MoReg 186		
4 CSR 120-2.071	State Board of Embalmers and Funeral Directors		29 MoReg 192		
4 CSR 120-2.080	State Board of Embalmers and Funeral Directors		29 MoReg 193		
4 CSR 120-2.090	State Board of Embalmers and Funeral Directors		29 MoReg 194		
4 CSR 120-2.100	State Board of Embalmers and Funeral Directors		29 MoReg 195		
4 CSR 120-2.110	State Board of Embalmers and Funeral Directors		29 MoReg 196		
4 CSR 120-2.115	State Board of Embalmers and Funeral Directors		29 MoReg 196		
4 CSR 165-2.010	Board of Examiners for Hearing Instrument Specialists		This Issue		
4 CSR 197-1.030	Board of Therapeutic Massage		29 MoReg 23		
4 CSR 197-1.040	Board of Therapeutic Massage		29 MoReg 23		
4 CSR 197-2.010	Board of Therapeutic Massage		29 MoReg 26		
4 CSR 197-2.030	Board of Therapeutic Massage		29 MoReg 32		
4 CSR 197-2.050	Board of Therapeutic Massage		29 MoReg 34		
4 CSR 197-3.010	Board of Therapeutic Massage		29 MoReg 36		
4 CSR 197-5.010	Board of Therapeutic Massage		29 MoReg 36		
4 CSR 197-5.020	Board of Therapeutic Massage		29 MoReg 36		
4 CSR 197-5.030	Board of Therapeutic Massage		29 MoReg 39		
4 CSR 197-5.040	Board of Therapeutic Massage		29 MoReg 41		
4 CSR 200-4.020	State Board of Nursing		This Issue		
4 CSR 205-3.030	Missouri Board of Occupational Therapy		29 MoReg 89		
4 CSR 210-2.080	State Board of Optometry		This Issue		
4 CSR 210-2.081	State Board of Optometry		This IssueR		
4 CSR 220-2.300	State Board of Pharmacy		29 MoReg 89		
4 CSR 235-1.020	State Committee of Psychologists		This Issue		
4 CSR 235-1.050	State Committee of Psychologists		This Issue		
4 CSR 240-3.165	Public Service Commission		28 MoReg 2214	29 MoReg 401	
4 CSR 240-3.190	Public Service Commission		28 MoReg 2028	29 MoReg 402	
4 CSR 240-3.245	Public Service Commission		28 MoReg 2215	29 MoReg 407	
4 CSR 240-3.265	Public Service Commission		28 MoReg 1901	This Issue	
4 CSR 240-3.335	Public Service Commission		28 MoReg 2216	29 MoReg 408	
4 CSR 240-3.435	Public Service Commission		28 MoReg 2217	29 MoReg 409	
4 CSR 240-3.440	Public Service Commission		28 MoReg 1906	29 MoReg 409	
4 CSR 240-3.500	Public Service Commission		28 MoReg 2139		
4 CSR 240-3.540	Public Service Commission		28 MoReg 2219	29 MoReg 410	
4 CSR 240-3.545	Public Service Commission		29 MoReg 369R 29 MoReg 369		
4 CSR 240-3.550	Public Service Commission		28 MoReg 2140		
4 CSR 240-3.555	Public Service Commission		29 MoReg 374		
4 CSR 240-3.640	Public Service Commission		28 MoReg 2220	29 MoReg 410	
4 CSR 240-3.650	Public Service Commission		28 MoReg 1907	This Issue	

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4 CSR 240-13.015	Public Service Commission		28 MoReg 2140	29 MoReg 411W	
4 CSR 240-13.035	Public Service Commission		28 MoReg 2141	This Issue	
4 CSR 240-18.010	Public Service Commission		28 MoReg 2030	29 MoReg 411	
4 CSR 240-32.020	Public Service Commission		28 MoReg 2145		
4 CSR 240-32.060	Public Service Commission		28 MoReg 2147		
4 CSR 240-32.070	Public Service Commission		28 MoReg 2148		
4 CSR 240-32.080	Public Service Commission		28 MoReg 2149		
4 CSR 240-32.200	Public Service Commission	29 MoReg 459	This Issue		
4 CSR 240-33.010	Public Service Commission		29 MoReg 374		
4 CSR 240-33.020	Public Service Commission		29 MoReg 374		
4 CSR 240-33.030	Public Service Commission		29 MoReg 376R		
4 CSR 240-33.040	Public Service Commission		29 MoReg 376		
4 CSR 240-33.060	Public Service Commission		29 MoReg 377		
4 CSR 240-33.070	Public Service Commission		29 MoReg 381		
4 CSR 240-33.080	Public Service Commission		29 MoReg 381		
4 CSR 240-33.110	Public Service Commission		29 MoReg 461		
4 CSR 240-33.150	Public Service Commission		29 MoReg 382		
4 CSR 240-36.010	Public Service Commission		29 MoReg 197		
4 CSR 240-36.020	Public Service Commission		29 MoReg 197		
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4 CSR 240-36.040	Public Service Commission		29 MoReg 199		
4 CSR 240-36.050	Public Service Commission		29 MoReg 202		
4 CSR 240-36.060	Public Service Commission		29 MoReg 203		
4 CSR 240-36.070	Public Service Commission		29 MoReg 203		
4 CSR 240-36.080	Public Service Commission		29 MoReg 204		
4 CSR 250-8.090	Missouri Real Estate Commission		28 MoReg 2150	29 MoReg 484	
4 CSR 250-8.096	Missouri Real Estate Commission		28 MoReg 2152	29 MoReg 484	
4 CSR 250-8.097	Missouri Real Estate Commission		28 MoReg 2152	29 MoReg 484	
4 CSR 263-1.035	State Committee for Social Workers		This Issue		
4 CSR 263-2.032	State Committee for Social Workers		This Issue		
4 CSR 263-2.045	State Committee for Social Workers		This Issue		
4 CSR 263-2.047	State Committee for Social Workers		This Issue		
4 CSR 263-2.060	State Committee for Social Workers		This Issue		
4 CSR 263-2.062	State Committee for Social Workers		This Issue		
4 CSR 263-2.085	State Committee for Social Workers		This Issue		
4 CSR 263-2.090	State Committee for Social Workers		This Issue		
4 CSR 263-3.020	State Committee for Social Workers		This Issue		
4 CSR 263-3.040	State Committee for Social Workers		This Issue		
4 CSR 263-3.140	State Committee for Social Workers		This Issue		
DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION					
5 CSR 80-800.200	Teacher Quality and Urban Education		28 MoReg 1771	29 MoReg 484	
5 CSR 80-800.220	Teacher Quality and Urban Education		28 MoReg 1774	29 MoReg 485	
5 CSR 80-800.230	Teacher Quality and Urban Education		28 MoReg 1776	29 MoReg 485	
5 CSR 80-800.260	Teacher Quality and Urban Education		28 MoReg 1779	29 MoReg 486	
5 CSR 80-800.270	Teacher Quality and Urban Education		28 MoReg 1782	29 MoReg 487	
5 CSR 80-800.280	Teacher Quality and Urban Education		28 MoReg 1784	29 MoReg 487	
5 CSR 80-800.290	Teacher Quality and Urban Education		28 MoReg 1786	29 MoReg 488	
5 CSR 80-800.300	Teacher Quality and Urban Education		28 MoReg 1786	29 MoReg 488	
5 CSR 80-800.350	Teacher Quality and Urban Education		28 MoReg 1787	29 MoReg 488	
5 CSR 80-800.360	Teacher Quality and Urban Education		28 MoReg 1790	29 MoReg 490	
5 CSR 80-800.370	Teacher Quality and Urban Education		28 MoReg 1793	29 MoReg 491	
5 CSR 80-800.380	Teacher Quality and Urban Education		28 MoReg 1796	29 MoReg 491	
5 CSR 80-800.400	Teacher Quality and Urban Education		28 MoReg 1800	29 MoReg 495	
5 CSR 90-7.010	Vocational Rehabilitation		28 MoReg 1800	29 MoReg 495	
5 CSR 90-7.100	Vocational Rehabilitation		28 MoReg 1801	29 MoReg 495	
5 CSR 90-7.200	Vocational Rehabilitation		28 MoReg 1801	29 MoReg 495	
5 CSR 90-7.320	Vocational Rehabilitation		28 MoReg 1802	29 MoReg 495	
5 CSR 100-200.010	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2222		
5 CSR 100-200.030	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2223		
5 CSR 100-200.040	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2223		
5 CSR 100-200.050	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2224		
5 CSR 100-200.060	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2224		
5 CSR 100-200.070	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2225		
5 CSR 100-200.075	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2225		
5 CSR 100-200.100	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2225		

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5 CSR 100-200.125	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2226		
5 CSR 100-200.130	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2226		
5 CSR 100-200.140	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2227		
5 CSR 100-200.150	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2227		
5 CSR 100-200.170	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2227		
5 CSR 100-200.180	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2230		
5 CSR 100-200.210	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2231		
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7 CSR 10-1.020	Missouri Highways and Transportation Commission		29 MoReg 384		
7 CSR 10-17.010	Missouri Highways and Transportation Commission		28 MoReg 1563		
7 CSR 10-26.010	Missouri Highways and Transportation Commission		28 MoReg 2231		
7 CSR 10-26.020	Missouri Highways and Transportation Commission		28 MoReg 2237		
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8 CSR 30-1.010	Division of Labor Standards		28 MoReg 2030	29 MoReg 495	
8 CSR 30-4.010	Division of Labor Standards		28 MoReg 2031	29 MoReg 496	
8 CSR 30-4.020	Division of Labor Standards		28 MoReg 2031	29 MoReg 496	
8 CSR 70-1.010	Missouri Assistive Technology Advisory Council		29 MoReg 462		
8 CSR 70-1.020	Missouri Assistive Technology Advisory Council		29 MoReg 463		
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9 CSR 10-5.190	Director, Department of Mental Health		28 MoReg 2153	29 MoReg 496	
9 CSR 10-5.210	Director, Department of Mental Health		28 MoReg 2155	29 MoReg 496	
9 CSR 30-4.195	Certification Standards		29 MoReg 204		
9 CSR 45-5.105	Division of Mental Retardation and Developmental Disabilities		28 MoReg 1805	29 MoReg 497	
9 CSR 45-5.110	Division of Mental Retardation and Developmental Disabilities		28 MoReg 1805	29 MoReg 497	
9 CSR 45-5.130	Division of Mental Retardation and Developmental Disabilities		28 MoReg 1809	29 MoReg 500	
9 CSR 45-5.140	Division of Mental Retardation and Developmental Disabilities		28 MoReg 1812	29 MoReg 500	
9 CSR 45-5.150	Division of Mental Retardation and Developmental Disabilities		28 MoReg 1816	29 MoReg 501	
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10 CSR 10-2.260	Air Conservation Commission		28 MoReg 1564	29 MoReg 412	
10 CSR 10-6.240	Air Conservation Commission		29 MoReg 303R		
10 CSR 10-6.241	Air Conservation Commission		29 MoReg 303		
10 CSR 10-6.250	Air Conservation Commission		29 MoReg 307		
10 CSR 10-6.260	Air Conservation Commission		28 MoReg 1911	This Issue	
10 CSR 20-7.050	Clean Water Commission		28 MoReg 2240		
10 CSR 40-10.020	Land Reclamation Commission		29 MoReg 204		
10 CSR 40-10.050	Land Reclamation Commission		29 MoReg 205		
10 CSR 60-5.010	Public Drinking Water Program		29 MoReg 465		
10 CSR 70-5.040	Soil and Water Districts Commission	28 MoReg 1369	28 MoReg 1916	29 MoReg 502	
10 CSR 100-2.010	Petroleum Storage Tank Insurance Fund Board of Trustees		28 MoReg 2156	29 MoReg 540	
10 CSR 100-3.010	Petroleum Storage Tank Insurance Fund Board of Trustees		28 MoReg 2157	29 MoReg 540	
10 CSR 100-4.010	Petroleum Storage Tank Insurance Fund Board of Trustees		28 MoReg 2157	29 MoReg 540	
10 CSR 100-4.020	Petroleum Storage Tank Insurance Fund Board of Trustees		28 MoReg 2163	29 MoReg 540	
10 CSR 140-2.020	Division of Energy				29 MoReg 415
10 CSR 140-2.030	Division of Energy				29 MoReg 415
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11 CSR 10-11.020	Adjutant General		This Issue		
11 CSR 10-11.070	Adjutant General		This Issue		
11 CSR 10-11.080	Adjutant General		This Issue		
11 CSR 10-11.100	Adjutant General		This Issue		
11 CSR 10-11.110	Adjutant General		This Issue		
11 CSR 10-11.120	Adjutant General		This Issue		
11 CSR 10-11.210	Adjutant General		This Issue		
11 CSR 45-1.020	Missouri Gaming Commission		29 MoReg 390		
11 CSR 45-4.260	Missouri Gaming Commission		29 MoReg 535		
11 CSR 45-5.200	Missouri Gaming Commission		29 MoReg 535		

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11 CSR 45-6.030	Missouri Gaming Commission		28 MoReg 2241	29 MoReg 541W	
11 CSR 45-10.030	Missouri Gaming Commission		29 MoReg 390		
11 CSR 50-2.400	Missouri State Highway Patrol		29 MoReg 390		
11 CSR 70-2.120	Division of Alcohol and Tobacco Control		29 MoReg 43		
11 CSR 70-2.140	Division of Alcohol and Tobacco Control		29 MoReg 43		
11 CSR 75-13.030	Peace Officer Standards and Training Program		29 MoReg 310		
11 CSR 75-13.060	Peace Officer Standards and Training Program		29 MoReg 310		
11 CSR 75-14.030	Peace Officer Standards and Training Program		29 MoReg 310		
11 CSR 75-16.010	Peace Officer Standards and Training Program		29 MoReg 311		
11 CSR 80-5.010	Missouri State Water Patrol		28 MoReg 2243	29 MoReg 502	
11 CSR 80-9.010	Missouri State Water Patrol		29 MoReg 44	This Issue	
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12 CSR 10-2.055	Director of Revenue		28 MoReg 2246R	29 MoReg 541R	
12 CSR 10-2.060	Director of Revenue		28 MoReg 2246R	29 MoReg 541R	
12 CSR 10-2.235	Director of Revenue		28 MoReg 2246R	29 MoReg 541R	
12 CSR 10-7.180	Director of Revenue		28 MoReg 2246R	29 MoReg 541R	
12 CSR 10-7.210	Director of Revenue		28 MoReg 2246R	29 MoReg 541R	
12 CSR 10-7.220	Director of Revenue		28 MoReg 2247R	29 MoReg 542R	
12 CSR 10-7.290	Director of Revenue		28 MoReg 2247R	29 MoReg 542R	
12 CSR 10-7.310	Director of Revenue		28 MoReg 2247R	29 MoReg 542R	
12 CSR 10-7.330	Director of Revenue		28 MoReg 2247R	29 MoReg 542R	
12 CSR 10-23.424	Director of Revenue		28 MoReg 2032	29 MoReg 412	
12 CSR 10-23.460	Director of Revenue		28 MoReg 2248	29 MoReg 542	
12 CSR 10-24.040	Director of Revenue		28 MoReg 2032	29 MoReg 412	
12 CSR 10-24.200	Director of Revenue		28 MoReg 2033	29 MoReg 412	
12 CSR 10-24.450	Director of Revenue		28 MoReg 2034R	29 MoReg 412R	
12 CSR 10-41.010	Director of Revenue	28 MoReg 2207	29 MoReg 90	This Issue	
12 CSR 30-4.010	State Tax Commission		29 MoReg 206		
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13 CSR 35-80.010	Children's Division	29 MoReg 261	29 MoReg 311		
13 CSR 35-80.020	Children's Division	29 MoReg 262	29 MoReg 314		
13 CSR 40-2.310	Division of Family Services	28 MoReg 1421	28 MoReg 1423		
			29 MoReg 392		
13 CSR 40-2.380	Division of Family Services	28 MoReg 1421	28 MoReg 1423		
			29 MoReg 392		
13 CSR 40-19.020	Family Support Division	28 MoReg 1892	28 MoReg 1916	29 MoReg 542	
13 CSR 70-3.120	Division of Family Services		28 MoReg 2248		
13 CSR 70-10.015	Division of Medical Services	28 MoReg 1894	28 MoReg 1918	29 MoReg 543	
		28 MoReg 1985T	This Issue		
13 CSR 70-10.080	Division of Medical Services	28 MoReg 1897	28 MoReg 1924	29 MoReg 543	
		28 MoReg 1985T			
13 CSR 70-10.110	Division of Medical Services	28 MoReg 1898	28 MoReg 1926	29 MoReg 543	
		28 MoReg 1985T			
13 CSR 70-15.010	Division of Medical Services		29 MoReg 393		
13 CSR 70-15.180	Division of Medical Services		28 MoReg 2249		
13 CSR 70-20.320	Division of Medical Services		28 MoReg 2163	29 MoReg 503	
13 CSR 70-90.010	Division of Medical Services		29 MoReg 317		
13 CSR 70-91.010	Division of Medical Services		29 MoReg 317		
13 CSR 70-91.030	Division of Medical Services		29 MoReg 326		
13 CSR 70-95.010	Division of Medical Services		29 MoReg 326		
13 CSR 70-98.010	Division of Medical Services		28 MoReg 1111		
13 CSR 70-98.015	Division of Medical Services		28 MoReg 2253		
13 CSR 70-98.020	Division of Medical Services		29 MoReg 327		
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15 CSR 30-1.010	Secretary of State		28 MoReg 2034R	This IssueR	
			28 MoReg 2034	This Issue	
15 CSR 30-8.020	Secretary of State		28 MoReg 1928	29 MoReg 543	
15 CSR 30-8.030	Secretary of State		28 MoReg 1928	29 MoReg 543	
15 CSR 30-12.010	Secretary of State		28 MoReg 1931	29 MoReg 543	
15 CSR 30-45.040	Secretary of State		28 MoReg 2037R	29 MoReg 413R	
			28 MoReg 2038	29 MoReg 413	
		28 MoReg 1626	28 MoReg 1674	29 MoReg 100	
15 CSR 30-51.171	Secretary of State		29 MoReg 400		
15 CSR 30-51.175	Secretary of State		29 MoReg 480		
15 CSR 30-54.175	Secretary of State	28 MoReg 1985	28 MoReg 2041	29 MoReg 413	
15 CSR 30-54.230	Secretary of State		28 MoReg 2041R	29 MoReg 413R	
15 CSR 30-54.240	Secretary of State		28 MoReg 2041R	29 MoReg 413R	
15 CSR 30-54.280	Secretary of State		28 MoReg 2042R	29 MoReg 413R	
15 CSR 30-55.110	Secretary of State	28 MoReg 1659	28 MoReg 1705	29 MoReg 112	
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19 CSR 15-4.060	Division of Senior Services	28 MoReg 1756	28 MoReg 1837	29 MoReg 116	
19 CSR 20-28.010	Division of Environmental Health and Communicable Disease Prevention		28 MoReg 1933	29 MoReg 503	
19 CSR 25-30.051	Division of Administration		29 MoReg 328		
19 CSR 25-33.010	Division of Administration		28 MoReg 2163	29 MoReg 503	

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19 CSR 25-34.010	Division of Administration		28 MoReg 2164R 28 MoReg 2164	29 MoReg 504R 29 MoReg 504	
19 CSR 30-82.015	Division of Health Standards and Licensure	28 MoReg 1756	28 MoReg 1837	29 MoReg 116	
19 CSR 30-82.060	Division of Health Standards and Licensure	28 MoReg 1986	28 MoReg 2042	29 MoReg 414	
19 CSR 30-82.080	Division of Health Standards and Licensure	28 MoReg 1757	28 MoReg 1838	29 MoReg 116	
19 CSR 30-82.090	Division of Health Standards and Licensure		28 MoReg 2254		
19 CSR 30-83.010	Division of Health Standards and Licensure	28 MoReg 1758	28 MoReg 1839	29 MoReg 116	
19 CSR 30-85.042	Division of Health Standards and Licensure	28 MoReg 1758	28 MoReg 1839	29 MoReg 117	
19 CSR 30-86.042	Division of Health Standards and Licensure	28 MoReg 1759	28 MoReg 1839	29 MoReg 117	
19 CSR 30-88.010	Division of Health Standards and Licensure		29 MoReg 536		
19 CSR 60-50	Missouri Health Facilities Review Committee				29 MoReg 226 This Issue
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20 CSR	Medical Malpractice				27 MoReg 415 28 MoReg 489 29 MoReg 505
20 CSR	Sovereign Immunity Limits				27 MoReg 41 27 MoReg 2319 28 MoReg 2265
20 CSR 10-1.020	General Administration		28 MoReg 1937	29 MoReg 504	
20 CSR 400-1.160	Life, Annuities and Health		29 MoReg 538		
20 CSR 400-7.095	Life, Annuities and Health		29 MoReg 328		
20 CSR 400-7.200	Life, Annuities and Health		28 MoReg 1715 29 MoReg 539		
20 CSR 600-1.020	Statistical Reporting		29 MoReg 207		
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22 CSR 10-1.010	Health Care Plan		29 MoReg 208		
22 CSR 10-1.020	Health Care Plan		29 MoReg 208		
22 CSR 10-2.010	Health Care Plan		29 MoReg 209		
22 CSR 10-2.020	Health Care Plan	29 MoReg 87	29 MoReg 209		
22 CSR 10-2.080	Health Care Plan		29 MoReg 210		

Emergency Rules in Effect as of April 15, 2004

Publication

Expires

Office of Administration

Division of Facilities Management

1 CSR 35-1.050	Public Use of State Facilities	28 MoReg 1983	April 15, 2004
1 CSR 35-2.030	Administration of the Leasing Process	28 MoReg 1984	April 15, 2004

Department of Agriculture

Animal Health

2 CSR 30-2.020	Movement of Livestock, Poultry and Exotic Animals Within Missouri	This Issue	August 27, 2004
2 CSR 30-2.040	Animal Health Requirements for Exhibition	This Issue	August 27, 2004
2 CSR 30-3.020	Brucellosis Quarantine Requirements on Cattle	This Issue	August 27, 2004
2 CSR 30-6.020	Duties and Facilities of the Market/Sale Veterinarian	This Issue	August 27, 2004

Weights and Measures

2 CSR 90-11.010	ANSI K61.1, Safety Requirements for the Storage and Handling of Anhydrous Ammonia	28 MoReg 2207	May 12, 2004
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Department of Economic Development

Public Service Commission

4 CSR 240-32.200	General Provisions for the Assignment, Provision and Termination of 211 Service	29 MoReg 459	September 10, 2004
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Department of Revenue

Director of Revenue

12 CSR 10-41.010	Annual Adjusted Rate of Interest	20 MoReg 2207	June 28, 2004
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Department of Social Services

Children's Division

13 CSR 35-80.010	Residential Foster Care Maintenance Methodology	29 MoReg 261	July 23, 2004
13 CSR 35-80.020	Residential Care Agency Cost Reporting System	29 MoReg 262	July 23, 2004

Elected Officials

Secretary of State

15 CSR 30-54.175	Solicitation of Interest	28 MoReg 1985	April 30, 2004
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Department of Health and Senior Services

Division of Health Standards and Licensure

19 CSR 30-82.060	Hiring Restrictions—Good Cause Waiver	28 MoReg 1986	April 22, 2004
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Missouri Consolidated Health Care Plan

Health Care Plan

22 CSR 10-2.020	Membership Agreement and Participation Period	29 MoReg 87	June 29, 2004
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Executive Orders

Executive Orders

Subject Matter

Filed Date

Publication

2004

04-01	Establishes the Public Safety Officer Medal of Valor, and the Medal of Valor Review Board	February 3, 2004	29 MoReg 294
04-02	Designates staff having supervisory authority over agencies	February 3, 2004	29 MoReg 297
04-03	Creates the Missouri Automotive Partnership	January 14, 2004	29 MoReg 151
04-04	Creates the Missouri Methamphetamine Education and Prevention Task Force	January 27, 2004	29 MoReg 154
04-05	Establishes a Missouri Methamphetamine Treatment Task Force	January 27, 2004	29 MoReg 156
04-06	Establishes a Missouri Methamphetamine Enforcement and Environmental Protection Task Force	January 27, 2004	29 MoReg 158
04-07	Establishes the Missouri Commission on Patient Safety and supercedes Executive Order 03-16	February 3, 2004	29 MoReg 299
04-08	Transfers the Governor's Council on Disability and the Missouri Assistive Technology Advisory Council to the Office of Administration	February 3, 2004	29 MoReg 301
04-09	Requires vendors to disclose services performed offshore. Restricts agencies in awarding contracts to vendors of offshore services	March 17, 2004	29 MoReg 533

2003

03-01	Reestablishes the Missouri Lewis and Clark Bicentennial Commission	February 3, 2003	28 MoReg 296
03-02	Establishes the Division of Family Support in the Dept. of Social Services	February 5, 2003	28 MoReg 298
03-03	Establishes the Children's Division in the Dept. of Social Services	February 5, 2003	28 MoReg 300
03-04	Transfers all TANF functions to the Division of Workforce Development in the Dept. of Economic Development	February 5, 2003	28 MoReg 302
03-05	Transfers the Division of Highway Safety to the Dept. of Transportation	February 5, 2003	28 MoReg 304
03-06	Transfers the Minority Business Advocacy Commission to the Office of Administration	February 5, 2003	28 MoReg 306
03-07	Creates the Commission on the Future of Higher Education	March 17, 2003	28 MoReg 631
03-08	Lists Governor's staff who have supervisory authority over departments	September 4, 2003	28 MoReg 1556
03-09	Lists Governor's staff who have supervisory authority over departments	March 18, 2003	28 MoReg 633
03-10	Creates the Missouri Energy Policy Council	March 13, 2003	28 MoReg 634
03-11	Creates the Citizens Advisory Committee on Corrections	April 1, 2003	28 MoReg 705
03-12	Declares disaster areas due to May 4 tornadoes	May 5, 2003	28 MoReg 950
03-13	Calls National Guard to assist in areas harmed by the May 4 tornadoes	May 5, 2003	28 MoReg 952
03-14	Temporarily suspends enforcement of environmental rules due to the May 4th [et al.] tornadoes	May 7, 2003	28 MoReg 954
03-15	Establishes the Missouri Small Business Regulatory Fairness Board	August 25, 2003	28 MoReg 1477
03-16	Establishes the Missouri Commission on Patient Safety	October 1, 2003	28 MoReg 1760
03-17	Creates the Governor's Committee to End Chronic Homelessness	October 8, 2003	28 MoReg 1899
03-18	Designates the Missouri State Highway Patrol within the Department of Public Safety as lead agency in state communications	December 10, 2003	29 MoReg 7
03-19	Creates the Public Safety Communications Committee	December 10, 2003	29 MoReg 9
03-20	Requires configuration of two-way radios used by agencies of the state of Missouri to include established interoperability channels as specified by the State Interoperability Executive Committee	December 10, 2003	29 MoReg 12
03-21	Closes state offices Friday, November 28 and Friday, December 26, 2003	October 24, 2003	28 MoReg 1989
03-22	Establishes the Missouri Sexual Offender Registration Task Force	December 10, 2003	29 MoReg 14
03-23	Adds the functions of a State Citizen Council to the Disaster Recovery Partnership	December 10, 2003	29 MoReg 16
03-24	Establishes the Governor's Commission on Hispanic Affairs	November 8, 2003	28 MoReg 2085
03-25	Requires state agencies to adopt cyber security policies and procedures. Designates the Office of Information Technology as principal forum to improve policies and procedures	December 10, 2003	29 MoReg 18
03-26	Reestablishes the Office of Information Technology as the mechanism for coordinating information technology initiatives for the state	December 10, 2003	29 MoReg 21
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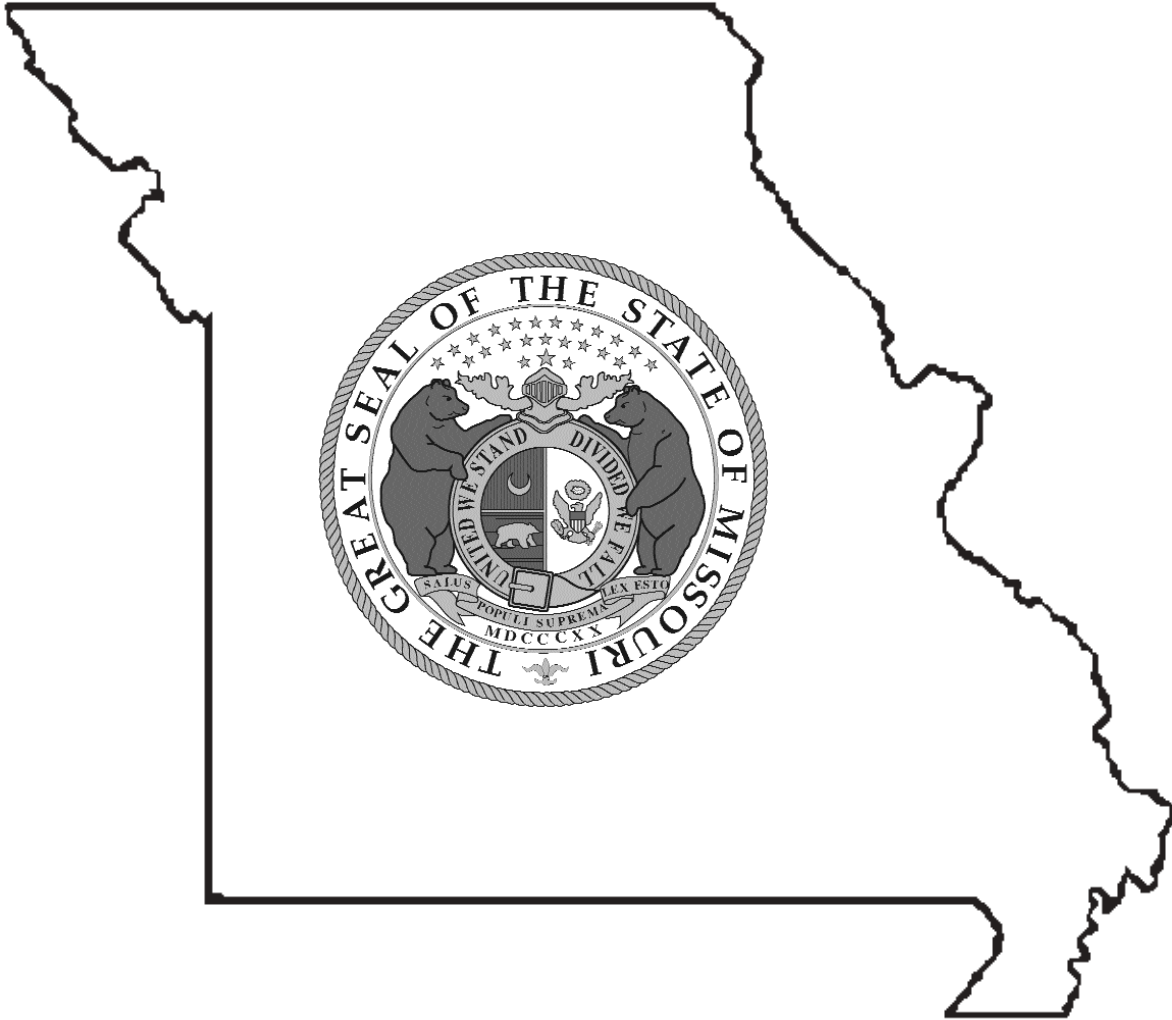
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